

**ORDINANCE #68179
Board Bill No. 277**

An Ordinance recommended and approved by the Board of Estimate and Apportionment authorizing and directing the Director of Airports and the Comptroller of the City of St. Louis (the "City") to enter into and execute on behalf of the City the Lambert-St. Louis International Airport® Public Communications Services Concession Agreement AL-434 (the "Agreement"), between the City and Power Station LLC, a Nevada corporation (the "Concessionaire"), granting to the Concessionaire the non-exclusive right, license, obligation, and privilege to design, construct, operate, manage, and maintain a Public Communication Services concession within the premises as described in the Agreement, subject to and in accordance with the terms, covenants, and conditions of the Agreement, which was approved by the Airport Commission and is attached hereto as **ATTACHMENT "1"** and made a part hereof; providing that the provisions set forth in this Ordinance shall be applicable exclusively to the Agreement; containing a severability clause; and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Director of Airports and the Comptroller for the City of St. Louis (the "City") are hereby authorized and directed to enter into and execute on behalf of the City the Lambert-St. Louis International Airport® Public Communications Services Concession Agreement AL-434 (the "Agreement"), between the City and Power Station LLC, a Nevada corporation (the "Concessionaire"), granting to the Concessionaire the non-exclusive right, license, obligation, and privilege to design, construct, operate, manage, and maintain a Public Communication Services concession within the premises as described in the Agreement, subject to and in accordance with the terms, covenants, and conditions of the Agreement, which was approved by the Airport Commission and is to read in words and figures substantially as set out in **ATTACHMENT "1"**, which is attached hereto and made a part hereof.

SECTION TWO. The terms, covenants, and conditions set forth in this Ordinance shall be applicable exclusively to the Agreement approved and authorized by this Ordinance and shall not be applicable to any other existing or future concession agreement or other agreements, documents, or instruments unless specifically authorized by ordinance enacted after the effective date of this Ordinance. All provisions of other ordinances of the City that are in conflict with this Ordinance shall be of no force or effect as to this Ordinance or the agreements, documents, and instruments approved and/or authorized by this Ordinance.

SECTION THREE. The sections, conditions, or provisions of this Ordinance or portions thereof shall be severable. If any section, condition, or provision of this Ordinance or portion thereof is held invalid by a court of competent jurisdiction, such holding shall not invalidate the remaining sections, conditions, or provisions of this Ordinance.

SECTION FOUR. This being an ordinance for the preservation of public peace, health, or safety, it is hereby declared an emergency measure as designed in Article IV, Section 20, of the City's Charter and shall become effective immediately upon its approval by the Mayor of the City.

ATTACHMENT "1"

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®



POWER STATION LLC

PUBLIC COMMUNICATIONS SERVICES

CONCESSION AGREEMENT

NO. AL-434

TABLE OF CONTENTS

	INTRODUCTION	Page 1
ARTICLE I	DEFINITIONS	Page 2
ARTICLE II	PREMISES	Page 4
ARTICLE III	CONCESSION RIGHTS	Page 5
ARTICLE IV	CONCESSION TERM	Page 5

ARTICLE V FEES AND RENTALS Page 6

ARTICLE VI CONCESSIONAIRE’S OPERATIONS Page 9

ARTICLE VII IMPROVEMENTS AND ALTERATIONS Page 15

ARTICLE VIII USE OF PREMISES Page 18

ARTICLE IX INSURANCE, DAMAGE AND INDEMNIFICATION Page 21

ARTICLE X ASSIGNMENT AND SUBCONTRACTING Page 29

ARTICLE XI TERMINATION OF AGREEMENT IN ENTIRETY Page 30

ARTICLE XII AIRPORT CONCESSIONAIRE DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION Page 32

ARTICLE XIII LIQUIDATED DAMAGES Page 33

ARTICLE XIV MISCELLANEOUS PROVISIONS Page 34

SIGNATURES Page 42

EXHIBIT "A" PREMISES 1 Page

EXHIBIT "B" LIVING WAGE ANNOUNCE BULLETIN 1 Page

EXHIBIT "C" LIST OF PRODUCTS, SERVICES AND PRICES. 1 Page

EXHIBIT “D” PAYPHONE OPERATING SPECIFICATIONS 2 Pages

AIRPORT NUMBER: AL- 434

LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT®
 CONCESSION AGREEMENT
 (Public Communications Services)

THIS AGREEMENT, made and entered into as of the _____ day of _____ 200____, by and between the CITY OF ST. LOUIS (**City**), a municipal corporation of the State of Missouri and Power Station LLC (**Concessionaire**), a corporation organized and existing under the laws of the State of Nevada.

WITNESSETH, THAT:

WHEREAS, the City now owns, operates and maintains an international airport known as “Lambert-St. Louis International Airport®” (**Airport**), located in the County of St. Louis, Missouri;

WHEREAS, an Public Communication Services (**PCS**) concession at the Airport is desirable for proper accommodation of the public;

WHEREAS, the City has determined that it is in the public interest for the following objectives to be met in the provision of a PCS Concession:

- To secure a Concessionaire that will provide the highest quality communication services and products at the airport on a non-exclusive basis to the traveling public and other airport users;
- Provide excellent customer service by installing and operating a PCS concession with state-of-the-art equipment and highly trained, motivated and pleasant employees;
- Generation of revenue for the Airport by developing marketing strategies that most efficiently meets customer demands and standards of performance that will permit Concessionaire to operate efficiently while maximizing customer satisfaction;
- Use creativity to allow Concessionaire to adapt to changes in passenger traffic, demographics and trends in airport retailing;
- Invest the capital and human resources necessary to offer the traveling public and airport staff the highest degree of customer service possible;

- Be responsive to the Federal Aviation Administration (FAA) and City goals for Airport Concession Disadvantaged Business Enterprise (ACDBE) participation in concessions;
- The order of these objectives should not be construed as an indication of their relative merit as viewed by the City.

WHEREAS, the City has advertised and received bids for the right to manage and operate a PCS concession at the Airport, and by this process the City has determined that the Concessionaire is a responsive and qualified operator of this business and has submitted a bid deemed advantageous to the public and the City.

NOW, THEREFORE, for and in consideration of the payments, promises and the mutual covenants and agreements herein contained and other valuable considerations, the City and the Concessionaire agree as follows:

ARTICLE I DEFINITIONS

Section 101. Definitions. The following words and phrases shall have the following meanings

“**Airport**” as stated in the preamble hereof.

“**Airport Concessions Disadvantaged Business Enterprise (ACDBE)**” shall mean a company that is a for-profit small business concern:

- That is a least fifty-one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged; or, in the case of a corporation, in which fifty one-percent (51%) of the stock is owned by one or more such individuals; and
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

“**Airport Properties Department**” shall mean that department of the City of St. Louis Airport Authority that has as its primary responsibility the administration of all tenant, permittee, concessionaire and other space at the Airport, and shall be the Concessionaire’s point of contact with the Airport on all issues related to this Agreement.

“**Agreement**” shall mean this concession contract for PCS and any amendments thereto, duly approved by the City.

“**Authority**” shall mean the City of St. Louis Airport Authority, the City department responsible for managing and operating the Airport.

“**Build-Out or Build-Out Costs**” shall mean costs incurred for the demolition/re-development of existing improvements and construction of new Improvements to the Premises, including furnishings, fixtures and finishes including Removable Fixtures, costs of architectural design and engineering fees, permits, insurance and construction bonds; but excluding the costs of interest during construction and overhead of the Concessionaire.

“**City**” as stated in the preamble hereof.

“**Concession**” as stated in the preamble hereof.

“**Concessionaire**” as stated in the preamble hereof.

“**Contract Year**” shall mean a period of twelve (12) consecutive calendar months commencing on the first day of the month following the full execution of the Agreement by the City.

“**Director**” shall mean the Director of Airports of the City of St. Louis Airport Authority or his/her designated representative, and incorporates the granting of approval requirements of Section 1415 hereof.

“**Equipment**” shall mean all telephone and related installations for purposes of providing the services herein including enclosures, wall mounts any structural devices used to mount or house telephone or other public communications devices, prepaid calling card machines, and machines used in the access to e-mail, Internet or other PCS products and services.

“**Good Faith Efforts**” shall mean efforts to achieve an ACDBE goal or other requirement that, by their scope, intensity and appropriateness to this objective, can reasonably be expected to meet the programs requirement.

“**Gross Receipts**” shall mean the total revenues from all sources and all types at the Airport under the Agreement and any derivative thereof performed by Concessionaire, its subcontractors, subsidiaries, associated companies or otherwise, regardless of the point of origin or delivery of the order; and, only the following may be excluded or deducted, as the case may be, from Gross Receipts:

- federal, state, county and municipal sales taxes or other sales taxes separately stated and collected from customers;

- cash or credit refunds given to customers for returned products or unperformed services purchased at the Airport;
- receipts in the forms of refunds from or the value of merchandise, supplies or equipment returned to shippers, suppliers or manufacturers;
- sale or trade-in value of any equipment or fixtures approved for removal by the Director and owned by Concessionaire.

Any revenues received as Dial Around Compensation as determined by the Federal Telecommunications Act of 1996, including any retroactive compensation from the time of the commencement date of this Agreement shall also be included as Gross Receipts under this definition.

“Improvements” shall mean all construction and fixtures built or erected by the Concessionaire, and forming a part of and which are permanently affixed or attached to any portion of Airport real property or improvements within the Premises.

“Metropolitan” shall mean the greater St. Louis Metropolitan area.

“Percentage” shall mean that designated portion of Concessionaire's Gross Receipts that are payable to the City.

“Percentage Fee” shall mean the product of (i) Gross Receipts multiplied by (ii) Percentage set out in Article V, Section 502 hereof.

“Premises” shall mean a location or locations described in Section 201 that have been designated by the City for the sale of Concessionaire's services, and for other uses provided specifically herein, together with all Improvements thereon.

“Public Communications Services” or **“PCS”** as stated in the preamble hereof.

“Removable Fixtures” shall mean all furnishings, equipment and fixtures installed by the Concessionaire that are not permanently affixed to any wall, floor or ceiling in the Premises.

ARTICLE II PREMISES

Section 201. Premises. City hereby permits the Concessionaire to install, maintain and operate at the locations on Airport property including the Airport terminals and concourses in accordance with rights granted under Section 301. Rights, as described in **Exhibit “A”**, attached hereto and made a part hereof. The rights granted in Section 301 hereof must only be exercised within the Premises.

The Director shall have the right to add, substitute, relocate or delete portions of the Premises upon reasonable notice to the Concessionaire. The City will not be liable or responsible for any loss whatsoever, including without limitation, any inconvenience or loss by the Concessionaire of work time, profit or business, actual, incidental, consequential or special damages resulting from these changes to the Premises.

Any additional premises granted to Concessionaire will have a Minimum Annual Guarantee equal to the non-airlines square footage rental rate for that area of the Airport if it is added to the Premises.

Concessionaire accepts the Premises **“AS IS”** with no warranties or representations of any kind, expressed or implied, either oral or written, made by the City or any of its agents or representatives. City without limitation expressly disclaims and negates as to the Premises any implied or expressed warranty for a particular purpose and any expressed or implied warranty with the respect to the Premises or any portion thereof.

Section 202. Access. Subject to the terms, covenants and conditions of this Agreement hereof, Concessionaire has the right of free access, ingress to and egress from the Premises for Concessionaire's employees, agents, guests, patrons and invitees.

ARTICLE III CONCESSION RIGHTS

Section 301. Rights. City hereby grants to Concessionaire, subject to and in accordance with all of the terms, covenants, warrants and conditions of this Agreement the nonexclusive right, license and privilege and Concessionaire hereby assumes the obligation to design, construct and to operate, manage and maintain an PCS concession within the Premises and the sale of products and services as listed in **Exhibit “C”** attached hereto and made a part hereof.

Section 302. Limitation of Rights. Concessionaire is not granted the right to offer for sale any merchandise, products, or services, or engage in any other business or commercial activity on the Airport that is not specifically granted under this Agreement. If any services or products, other than those specifically mentioned in Section 301 are offered for sale by Concessionaire, Concessionaire will cease and desist from any further sale or provision thereof immediately and not later than upon receipt of written notice from the Director.

Concessionaire shall not engage in advertising or provide an area for the distribution of advertisements on behalf of any company other than itself. City shall be the sole judge whether the conduct of Concessionaire's representative in the solicitation of business constitutes a violation of this paragraph, and upon notice from the City, Concessionaire shall forthwith take all steps necessary to

eliminate the undesirable condition.

This Agreement grants no real or implied rights to any concession privileges on the Airport other than in the designated areas.

ARTICLE IV
CONCESSION TERM

Section 401. Term. The term of this Agreement shall consist of five (5) years commencing on the first day of the month following full execution of the Agreement by the City.

Concession Term _____ to _____

Section 402. Surrender of Possession. No notice to quit possession at the expiration date of the term of this Agreement shall be necessary. Concessionaire covenants and agrees that at the expiration date of the term of this Agreement, or at the earlier termination hereof, it will peaceably surrender possession of the Premises, in as good condition as that existing at the time of Concessionaire's initial entry upon the Premises, reasonable wear and tear, acts of God, and other casualties excepted, and the City shall have the right to take possession of the Premises with or without due process of law.

Section 403. Holdover Provision. If Concessionaire shall, with the prior written approval of the Director, holdover after the expiration of the term of this Agreement, the resulting tenancy shall, unless otherwise mutually agreed, be a tenant at will on a month-to-month basis. During such month-to-month tenancy, Concessionaire shall pay to City the same Concession Fees as set forth herein, unless different fees shall be agreed upon by the Director on behalf of the City and the Concessionaire, and shall be bound by all terms, covenants and conditions of this Agreement.

ARTICLE V
FEES AND RENTALS

Section 501. General. Concessionaire, for and in consideration of the rights and privileges granted herein, agrees to pay the concession fees and the other fees and charges set forth below in Sections 502, 505 and 510 and the utilities described in Section 804 of this Agreement, without demand, during the term of this Agreement.

Section 502. Concession Fee Payments.

- A. During the entire term of the Agreement Concessionaire agrees to pay to the City a Minimum Annual Guarantee (MAG) fee of fifty thousand dollars (\$50,000.00) for each Contract Year or the Percentage for each product or service, as set out below.

<u>Product or Service</u>	<u>Percentage</u>
Payphone Operations	10%
Prepaid Phone Cards	15%
Video Games	15%
Internet Service	15%
Laptop Rentals	15%
Battery Charging Bay	15%

- B. Upon request, the MAG shall be reduced by a maximum of twenty-five percent (25%) should enplaned passengers fall by at least twenty-five percent (25%) or more in a period of up to twelve (12) months after Contract Year One (1), the base year for enplanement comparisons. Enplanement comparisons for periods of less than twelve (12) months shall be made only on the basis of comparing the same months of the comparison period to the base year (e.g., a comparison of May – November must be compared to the months of May – November of Contract Year One (1). Enplanement numbers used for comparisons shall be taken from the statistics recorded by the City. This adjustment shall be subject to the following limitations:

- Adjustment will take effect, if requested, following the period in which the entire twenty-five percent (25%) reduction in enplanements is attained;
- Adjustment applies only two periods subsequent to the entire twenty-five percent (25%) decline in enplaned passengers; and
- Adjustment will be offset proportionally to one hundred percent (100%) of the applicable Contract Years' Minimum Annual Guarantee for Contract Years following enplanement increases above seventy-five percent (75%) of Contract Year One (1).

Section 503. Payment. Payments for each month of each Contract Year shall consist of (a) an amount paid in advance on or before the first (1st) day of each month of 1/12 of the MAG; and (b) an amount paid on or before the 15th day of the second and each succeeding month equal to the Percentage Fee applied to the Gross Receipts for the preceding month which exceeds the MAG as set forth in this Agreement. (See Article V, Section 505 Unpaid Fees for the amount of any applicable service charge and Article XIII

LIQUIDATED DAMAGES.)

Section 504. Reports.

- A. Concessionaire shall submit to the City by the 15th day of the second and each succeeding month of each Contract Year hereof, two copies of an accurate statement of Gross Receipts. Concessionaire shall document in a manner satisfactory to the Director the specifics of all refunds deducted from Gross Receipts. This statement shall separately state Gross Receipts for products by location and be certified as accurate by an officer of the Concessionaire. The final statement of Gross Receipts will be due by the 15th day of the month following expiration of this Agreement. Concessionaire shall report Gross Receipts, on a form approved by the Director. The City reserves the right to use these statements of Gross Receipts as a source of information to bidders in a future solicitation for bids or request for Bids for this concession.
- B. Concessionaire shall submit an audited report of Gross Receipts within one hundred twenty (120) days following the conclusion of each Contract Year. These audit reports must be prepared by an independent Certified Public Accountant. The audit reports shall at a minimum certify the accuracy of (i) reported total accumulated Gross Receipts; and (ii) the aggregate amount of Gross Receipts and/or goods and services attributable to ACDBE participants. The audit reports shall also include a schedule showing the total of actual payments to the City during the Contract Year and shall state an opinion as to the correctness of the computation of Gross Receipts without exception.
- C. Within thirty (30) days after the close of each Contract Year, except the last Contract Year, Concessionaire shall provide the City with an estimate of projected monthly Gross Receipts for the subsequent Contract Year.
- D. Delivery of an audit report containing a qualified opinion, an adverse opinion or a disclaimer of opinion as defined in the Statement on Auditing Standards, or as same may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, shall be deemed to be a default pursuant to Section 1101 B. 10 herein.
- E. Concessionaire shall keep, and make available to the City, such records (copies of subcontracts, paid invoices, documentation or correspondence) as are necessary for the City to determine compliance with the ACDBE participation requirement. The City reserves the right to investigate, monitor and/or review records for compliance. Concessionaire shall submit quarterly ACDBE activity reports to the City in a form approved by the Director.

Section 505. Unpaid Fees. All unpaid fee payments due the City hereunder shall bear a service charge of 1½% per month if same is not paid and received by the City on or before the 20th of the month in which said payments are due, and Concessionaire agrees that it shall pay and discharge all costs and expenses including attorney fees and litigation cost incurred or expended by the City in collection of said delinquent amounts due, including service charges.

Section 506. Performance and Payment Bond. Concessionaire agrees to furnish a Performance and Payment Bond in a form acceptable to City in the principal amount equal to fifty thousand dollars (\$50,000.00) prior to execution of this Agreement. Such bond or other form of security agreed to by the City, shall remain in full force and effect throughout the term of this Agreement and shall extend at least one hundred eighty (180) days following the expiration or early termination of this Agreement. In the event that said bond should expire prior to expiration or early termination of this Agreement, Concessionaire warrants, covenants and agrees to provide City a renewal bond sixty (60) days prior to expiration date of the expiring bond. Such bond will guarantee the payment of all fees and performance of all other terms, covenants and conditions of this Agreement. The Performance and Payment Bond will be in the form of standard commercial guaranty bond running to City, written by a surety company authorized to do business in Missouri and (i) having a "Best" key rating of not less than A and with a "Best" Financial Size Category of not less than Class VIII and (ii) shown on the most recent U.S. Treasury Circular No. 570 as having an "underwriting limitation" of at least the amount of the penal sum of the bond. The bond will be kept in full force and effect during the term hereof. City may agree to another form of deposit which will provide equal protection of City's interest. If City cashes the bond or other form of deposit agreed to by the City, Concessionaire agrees to furnish a replacement Performance and Payment Bond or other form of deposit in the same principal amount within fifteen (15) days.

Section 507. Prompt Payment of Taxes and Fees. Concessionaire warrants, covenants and agrees to pay promptly all lawful general taxes or payments in lieu of taxes, special assessments, excises, license fees, permit fees, and utility service charges of whatever nature, applicable to its operation at the Airport, and to take out and keep current all licenses, municipal, state or federal, required for the conduct of its business at and upon the Airport or under this Agreement, and further covenants and agrees not to permit any of said taxes, payments, assessments, fees and charges to become delinquent.

Section 508. Accounting Records and Reports. During the term hereof Concessionaire shall make available in the St. Louis area true, accurate, complete and auditable records of all business it conducts at the Airport. Concessionaire shall make same records available in the St. Louis area for one (1) year following the expiration or early termination of this Agreement. These records shall be accessible during usual business hours to the City or its duly appointed agents or auditors. Concessionaire is not required to maintain its records in the St. Louis area, as provided above, if it agrees to pay for all costs associated with conducting audits performed by the City, or its duly appointed agents or auditors, at the Concessionaire's place of records.

Section 509. Audit. City, or its duly appointed agents or auditors, reserves the right to audit Concessionaire's, subcontractor's (or others doing business under this Agreement) books, records and receipts at any time for the purpose of verifying the Gross Receipts hereunder. If the results of the audit(s) reveal a discrepancy of more than five percent (5%) between Gross Receipts reported by Concessionaire and Gross Receipts determined by the audit, the cost of the audit shall be borne by Concessionaire.

Section 510. Additional Fees, Charges and Rentals. Concessionaire shall pay additional fees, charges and rentals under the following conditions:

- A. If the City has paid any sum or sums or has incurred any obligations or expenses for which Concessionaire has agreed to pay or reimburse the City for; or
- B. If the City is required or elects to pay any sum or sums or incurs any obligations or expenses because of the failure, neglect or refusal of Concessionaire to perform or fulfill any of the terms, covenants or conditions of this Agreement.

Such payments shall include all interest, costs, damages and penalties in conjunction with such sums so paid or expenses so incurred and may be added to any installment of fees, charges and rentals thereafter due hereunder. Each and every part of such payment shall be recoverable by the City in the same manner and with like remedies as if it were originally a part of the basic fees, charges and rentals, as set forth herein.

For all purposes under this paragraph, and in any suit, action or proceeding of any kind between the parties hereto, any receipt showing the payment of any sum or sums by the City for any work done or material furnished shall be prima facie evidence against Concessionaire that the amount of such payment was necessary and reasonable.

Section 511. Notice, Place and Manner of Payment. Payments to the City shall be made to the Airport Administrative Office, at the Airport, or at such other place as the City may hereafter notify Concessionaire and shall be made in legal tender of the United States.

ARTICLE VI CONCESSIONAIRE' S OPERATIONS

Section 601. Standards of Service.

- A. Deliveries of supplies, cash and coin to the concession premises shall be made at such times, by such routes/modes and at such locations as the City may reasonably approve.
- B. Premises shall be kept clean, neat, business-like and in an orderly condition at all times and Concessionaire shall provide for timely disposal of trash and debris at locations designated by the City.
- C. Concessionaire shall ensure that each customer receives prompt, efficient and courteous service from pleasant and well trained employees. In conjunction with this requirement Concessionaire shall ensure that each location has adequate staff and product to provide such service. Concessionaire shall ensure that all concession locations have adequate staff and/or product available to continue service during normal peak operating hours and during any special or emergency circumstances including flight and weather delays. All equipment must be kept in optimum working condition. Concessionaire shall use reasonable efforts to employ an adequate number of bilingual personnel to serve non-English-speaking patrons as market demand may warrant.
- D. Concessionaire shall assure that its agents and employees do not engage in the solicitation of or pressure sales tactics for products offered on or about the Airport.
- E. Operations shall fully comply with all Federal Aviation Administration (FAA) regulations including security requirements, Airport rules and regulations and Airport security plan. Employees shall be suitably badged in accordance with Airport security procedures and regulations and shall fully comply with the Transportation Security Administration's (TSA) regulation 1542 regarding conduct and access to the Airfield Operations Area (AOA).

Section 602. Hours of Operation. The hours of operation for serving the public shall be twenty-four (24) hours per day, every day of the year.

Section 603. Promotion. Concessionaire warrants, covenants and agrees that it shall take all reasonable measures in every proper manner to maintain, develop and increase the business conducted by it hereunder. Concessionaire shall not divert or cause or allow any business to be diverted from the Airport by referral or any other method. Any action taken by Concessionaire to diminish the Gross Receipts of Concessionaire under this Agreement shall constitute a material breach hereof and a cause for the termination of this Agreement by the City.

Section 604. Personnel.

- A. Concessionaire shall select and appoint a full-time, experienced manager thoroughly trained to provide and teach excellent customer service and is fully authorized to represent and act on behalf of the Concessionaire in all

matters pertaining to its business operation, and who will be responsible for all aspects of contract and ensure compliance with the items delineated in this Section of the Bid.

The manager named in the Bid and he/she shall be responsible for the implementation and management of the day-to-day operations of the services. This individual shall be the single point of contact between the City and Concessionaire and be involved in the fulfillment of the requirements outlined herein and in the Agreement. The manager must be capable of, and will be expected to monitor and maintain an acceptable service level at Lambert-St. Louis International Airport®.

The manager shall serve as liaison with the City with sufficient authority and support staff and appropriate equipment, supplies and means to manage and perform the development, management, and other functions and obligations with respect to the assigned areas, including, without limitation, the obligation to administer any contracts to which Concessionaire is party, each with authority to resolve operational issues.

The manager shall monitor the Concession to evaluate and enforce the compliance with their Agreement, including but not limited to compliance with the any rules and regulations. The manager shall use commercially reasonable efforts to remedy any problem or issue raised by Airport patrons with respect to the operation of the Concession.

The manager will act as the project manager for its design and construction program, which may be coordinated with the project's construction manager.

The manager will be required to attend all meetings called by the City that relate to the concession program.

- B. The successful Bidder will designate a local service manager for this contract, who will be responsible for all aspects of service and maintenance. The service manager or a designated supervisor should be "on-call", with a telephone and/or pager number provided to the City, who can be reached at any time and who is able to arrive at the Airport within one (1) hour of a telephone call to address emergency problems.

Maintenance and technical personnel are to be available for local emergency contact 24 hours-a-day, 365 days-a-year. All technicians performing any type of service must be factory certified and able to meet all federal, state and local security requirements. Maintenance will be performed in accordance with the manufacturer-determined periodic maintenance intervals.

The maintenance and technical services cover all hardware parts, cleaning service, labor, telephone and telephone line upkeep, and database management. Labor cost covers on site service time, shop time, travel time, and overtime. The Concessionaire shall maintain a suitable level of spare equipment and special parts for the repair or replacement of any defective equipment and parts.

All personnel shall be neat, clean, well-groomed and courteous at all times, and shall wear appropriate uniforms or other garb or insignia, including properly displayed Airport issued ID badge. Concessionaire shall provide proper training of all employees including on-going customer service training and for the certification and/or licensing of employees in all areas of service as their duties might legally require. Concessionaire shall ensure that all personnel refrain from any loud, boisterous, offensive or inappropriate conduct, and that they treat all patrons equally and courteously including, but not limited to, forms of address without regard to race, creed, color, national origin, ethnicity, age, disability, gender or sexual orientation.

- C. Concessionaire shall provide proper training of all employees including on-going customer service training and for the certification and/or licensing of employees in all areas of service as their duties might legally require. Concessionaire agrees that it will be responsible for ensuring that its employees abide by all applicable laws, rules and regulations. Concessionaire shall prohibit and restrain its agents, servants and employees from loud, noisy, boisterous or otherwise objectionable behavior. Upon objection from the Director concerning the conduct or appearance of any such persons, Concessionaire shall immediately take all steps necessary to remove the cause of the objection.

- D. Concessionaire, at its cost, acknowledges and agrees that it shall conduct employee background checks of each of its personnel if required by the FAA, Transportation Security Administration (TSA) and/or the Airport. Concessionaire recognizes and agrees that security requirements may change and Concessionaire agrees that it shall comply with all such changes throughout the term of this Agreement.

Concessionaire understands and agrees that fines and/or penalties may be assessed by the FAA or the TSA for Concessionaire's noncompliance with the provisions of the TSA regulation 1542 as amended or other applicable laws or regulations. Concessionaire shall promptly reimburse the City (within 30 days of the City's request) for any fines or penalties paid by the City due to Concessionaire's noncompliance with said laws or regulations.

- E. Concessionaire's employees will be trained to have sufficient knowledge of the Airport to be able to give clear and accurate directions to the public.

Section 605. Onset of Service. Concessionaire shall be solely liable and responsible for all costs and expenses pertaining to the design, construction, acquisition, installation, replacement, relocation and maintenance of the Improvements, Removable Fixtures and equipment as is necessary to provide service pursuant to this Agreement. At the time of Bid, Concessionaire submitted a transition plan and development schedule, subject to the approval of the Director, for the efficient transition of service from any previous concessionaire. Concessionaire shall be responsible to coordinate the execution of the transition, in accordance with the approved transition plan and replacement schedule, with the previous concessionaire to assure a smooth transition of service with the minimum amount of disruption of service to the traveling public and other users at the Airport.

Section 606. Telephone Equipment. Concessionaire shall install and maintain like-new and top quality Equipment in a clean and good appearance as set forth in **Exhibit D** attached hereto. City shall not be responsible for the Concessionaire's goods or Equipment used or maintained at the Airport nor will the City be responsible for damage to concessionaire's goods and Equipment from flood, fire, explosion, vandalism or other causes outside the control and responsibility of the City.

Section 607. Equipment Cleaning, Maintenance Checks and Repair.

- A. Concessionaire shall, at its own expense, at all times following the commencement of this Agreement, maintain, inspect, clean, and disinfect its telephones, enclosures and other Equipment no less frequently than every five (5) days.
- B. Concessionaire and the City shall mutually agree on a format for repair reports. These reports shall be maintained by the Concessionaire for at least one (1) year and submitted to the Director once every six (6) months. Concessionaire shall provide repair service for Equipment twenty-four (24) hours a day, seven (7) days a week and shall respond within one (1) hours after so indicated by the computer program check or report of any Equipment or service outage. The Director may order the removal and/or replacement of any Equipment that does not meet reasonable standards.

Section 608. Pricing.

Concessionaire shall establish rates for local public pay phone calls (local and IntraLATA) that reflect the prevailing rates for local pay phone service in the Metropolitan area. Concessionaire's rates shall be commensurate with the tariff rates charged at similar sized airports in the Midwest of the United States for long distance public pay phone service (InterLATA and International long distance), including any and all service charges or discounts for long distance public pay phone service. Concessionaire submitted with its bid a list of local and long distance pay phone service proposed rates as well as current information on rates for public pay phone service in effect for the majority of the Metropolitan marketplace, subject to the approval of the Director, and attached hereto as Exhibit C. Concessionaire's rates with respect to public pay phones utilized at the Airport must comply with all federal, state and local laws and rules. Concessionaire shall not impose and Airport or location surcharge.

Concessionaire shall establish rates on prepaid calling card vending machines, e-mail, Internet services and other products and services that are commensurate with what is being charged at similar sized airports in the Midwest of the United States. Concessionaire submitted with its bid a list of prepaid calling card vending machines, e-mail, Internet services and other products and services, as well as current information on rates being charged for these products and services at similar sized airports in the Midwest of the United States, subject to the approval of the Director and attached hereto as Exhibit C. Concessionaire's rates with respect to prepaid calling card vending machines, e-mail and Internet utilized at the Airport must comply with all federal, state and local laws and rules. Concessionaire shall not impose and Airport or location surcharge.

Concessionaire shall not increase rates or prices without the prior written approval of the Director. Such rates and charges shall be subject to review for increases only once per year unless a more frequent review is agreed to in writing by the Director. Concessionaire's rates may only be increased following substantiation, submitted by Concessionaire, that price movements has occurred at a majority of public pay phones in the Metropolitan area, or at similar sized airports in the Midwest of the United States.

Products containing selling prices printed by the manufacturer shall not be sold for more than published prices.

All new products are subject to the street pricing requirements of Section 606 hereof and may be proposed at any time.

Concessionaire is permitted, but not required, to offer discounted prices to employees of the City and other Airport employees. The amount of the discount shall be approved by the Director prior to opening of Premises. In addition, no discounts may be changed, modified or discontinued without the Approval of the Director and with no less than thirty (30) days' notice to the Director.

Section 609. Directories. Concessionaire shall coordinate the delivery of current directories (white pages and yellow pages) on an annual basis of a type in use throughout the Metropolitan area. Concessionaire hereby agrees to use its best efforts to arrange for the installation of additional directories if deemed reasonably necessary by the Director. The concessionaire shall provide and install permanently secured swing away holders designed to hold such directories unless another method for security directories is approved in advance and in writing by the Director.

Section 610. Conflicts. Concessionaire shall monitor the movement of its vehicles or equipment to minimize conflict with other functions and users of the Airport and shall coordinate its use of the Airport with other users.

Section 611. Record Keeping. Concessionaire agrees to provide a system for the collection of all monies and provision of accounting,

audit and statements of Gross Receipts as required by Article V of this Agreement. This system shall be capable of providing comprehensive records, in a format acceptable to the Director, of daily, monthly and annual sales of Concessionaire and ACDBE participant(s) under this Agreement (these records are to be retained by Concessionaire). Concessionaire must also maintain records that document, in a format acceptable to the Director, the portion of Gross Receipts attributable to ACDBE participants.

Section 612. Transition Period. If applicable, during any future transition of the PCS concession to another Concessionaire, the incumbent Concessionaire hereby warrants, represents, covenants and agrees that Concessionaire shall use its best efforts to assure a smooth transition and agrees to closely coordinate the planning and execution of the transition with the Director.

Section 613. Operation.

- A. Concessionaire shall be responsible for all aspects of the management and operation of this Concession. Further, Concessionaire shall provide and be responsible for all employees and necessary components of the operation, including inventory, fixtures, equipment and supplies.
- B. The City shall not be responsible for any Equipment, Improvements, supplies or fixtures used, maintained or stored on the Premises, nor will it be responsible for damage to such items resulting from flood, fire, explosion, vandalism or other causes outside the control and responsibility of the City.

Section 614. Communication.

- A. Concessionaire's local manager shall schedule monthly or quarterly meetings (at the Airport Properties Department's discretion) with the appropriate representative of the Airport Properties Department to discuss sales and the DBE Program Office to discuss ACDBE participation, any other relevant issues which may affect Concessionaire's operation at the Airport. Concessionaire shall also be available for meetings at other times as necessary.
- B. Concessionaire shall be responsible for notifying the Airport Properties Department of any problem that reduces service or sales levels or in any way impairs Concessionaire's operation. The Airport will make every reasonable effort to assist in eliminating such problems.

Section 615. Customer Complaints. Concessionaire shall establish procedures for handling all customer complaints. Concessionaire shall respond in writing to every complaint, written or oral, within seven (7) calendar days of the complaint and shall make good faith efforts to explain, resolve or rectify the cause of the complaint. Concessionaire shall provide the Director with a copy of each such complaint and its written response thereto.

Section 616. Deliveries. Concessionaire shall monitor the movement of deliveries to avoid conflict with other functions and users of the Airport and shall coordinate its use of the receiving dock with other users. All deliveries are the responsibility of Concessionaire and not the City.

ARTICLE VII IMPROVEMENTS AND ALTERATIONS

Section 701. Construction by Concessionaire.

- A. Concessionaire takes the Premises "AS IS" and agrees at Concessionaire's sole cost and expense, to design, erect, construct and furnish all necessary Equipment that complies with the Payphone Operating Specification in Exhibit D of this agreement and design, construct and install related facility changes such as reinforcing walls and installing required flooring as needed to provide PCS pursuant to this agreement, in accordance with plans and specifications approved by the Director subject to the requirements of this Article VII.
- B. Passenger flow must be addressed to eliminate queuing into the concourses. The design must meet the criteria of the Americans with Disabilities Act (ADA) along with all similar state and local requirements. Design of the Concession will be subject to the review and approval of the Airport Properties Department and Planning and Engineering Department of Lambert-St. Louis International Airport®. Drawings must be submitted to the Airport Properties Department along with a completed Tenant Construction or Alteration Application (TCA) Building permits will be required from St. Louis County. Fire protection drawings must be sealed by a licensed fire protection contractor and are subject to review and approval by the Airport's insurance carrier. No work can begin until drawings have been approved by the City, building permits have been submitted to the city and a pre-construction conference has been held.
- C. Concessionaire agrees that all such work shall be completed according to the Tenant Design Standards, which are filed of record in the Office of the Director.
 - 1) Concessionaire shall submit a signed TCA including complete sealed construction drawings and specifications, as required by Section 702 hereof, to the Airport Properties Department for its initial as well as future construction. The TCA shall be submitted not more than thirty (30) days following full execution of the Agreement by City.

- 2) Concessionaire shall submit a St. Louis County building permit number not more than thirty (30) days following submission of the TCA to the Airport Properties Department. (A building permit number is required before construction can begin.)
- 3) Concessionaire shall submit the contractor's liability insurance certificates and performance and payment bonds, required by Sections 704 and 705 hereof, to the Airport Properties Department not more than forty-five (45) days following the TCA approval by the Airport Properties Department and prior to beginning of work.
- 4) Concessionaire shall complete all construction and installation in a timely manner in order to maintain Public Communication Service at the Airport.
- 5) Failure to open and operate in accordance with this Section 701 will result in Concessionaire being assessed liquidated damages in the amount of \$500/day for each day.
- 6) Concessionaire shall submit a certificate of completion and a certified copy of a St. Louis County occupancy permit, to the Airport Properties Department, as required by Section 706 hereof.

In the event Concessionaire encounters material believed to be asbestos or polychlorinated biphenyl (PCB) which has not been rendered harmless, or specifically identified with method of removal, handling or protection, Concessionaire shall immediately stop work in the affected area and report the condition to the Director in writing. The work in the affected area shall not thereafter be resumed except by written agreement of the Director and Concessionaire if in fact the material is asbestos or PCB and has not been rendered harmless. The work in the affected area shall be resumed in the absence of asbestos or PCB, or when it has been rendered harmless, by written agreement of the Director and Concessionaire. Concessionaire shall not be required to perform, without their consent, any work related to asbestos or PCB.

Section 702. Preparation of Plans and Specifications. Concessionaire shall submit detailed drawings, plans and specifications sealed by an appropriate Missouri registered professional for improving and equipping the Premises. Concessionaire shall begin work on proposed construction only after it has received the written approval of its plans and specifications from the Director.

Section 703. Contractor's Liability Insurance. In any contract appertaining to improving and equipping the Premises, Concessionaire shall require the contractor to cause the City, its Board of Aldermen, Airport Commission and their respective officers, agents and employees, to be insured against the risk of claims and demands, just or unjust, by third persons against the City, its Board of Aldermen, Airport Commission and their respective officers, agents and employees, against and from all such claims and demands, with bodily injury limits of not less than two million dollars (\$2,000,000.00) as to any one person, and two million dollars (\$2,000,000.00) as to any one occurrence, and with property damage limits of not less than two million dollars (\$2,000,000.00) as to any one occurrence. Said insurance shall be in a form acceptable to the City.

Section 704. Performance and Payment Bonds. Concessionaire shall require each of its contractors and suppliers of construction materials to furnish a Performance Bond and a Payment Bond each in the full amount of any contract in a form acceptable to the City. The Payment Bond shall comply with the coverage requirements and conditions of Section 107.170 RSMo (Revised Statutes State of Missouri). Copies of the bonds shall be given to the City for approval before work begins. Any sum or sums derived from said Performance and Payment Bonds shall be used for the completion of said construction and the payment of laborers and material suppliers, as the case may be.

Section 705. Mechanics' and Materialmen's Liens. Concessionaire agrees not to permit any mechanics' or materialmen's or any other lien or encumbrance to be attached to or foreclosed upon the Premises or any part or parcel thereof, or the improvements thereon, by reason of any work or labor performed or materials furnished by any mechanic or materialman or for any other reason.

Section 706. Certificates of Completion. Upon the completion of the improvements hereunder, Concessionaire shall submit to the Director a copy of its acceptance letter certifying completion and a certified copy of any certificate or permit which may be required by any federal, state or local government or agency in connection with the completion or occupancy thereof by Concessionaire. Concessionaire will provide the City with sealed as-built drawings within ninety (90) days of opening.

Section 707. Signs.

- A. Concessionaire shall not erect, maintain or display any signs on the Premises without the prior written approval of the Director. The term "sign" as used herein, shall mean advertising signs, billboards, identification signs or symbols, posters, displays, logos, or any similar devices. Subject to the foregoing, Concessionaire shall have the right to install such advertising and identification signs as may be necessary for the proper conduct of a PCS concession as contemplated hereunder. Concessionaire shall comply with all rules promulgated by the Director regarding the placement of signs and advertising in the Premises.
- B. Concessionaire shall be responsible for the cost of any new signs or modifications to Airport directories and other existing signs, including sign systems required by the Director. All modifications to these signs must be approved by the Director and are subject to all applicable requirements of this Section 707 hereof and the Tenant Design Standards.

- C. Prior to the erection, construction or placement of any sign, Concessionaire shall submit to the Director for approval, all drawings, electrical details, sketches, designs, elevations, mounting details and dimensions of such signs. Any conditions, restrictions or limitations with respect to the use thereof as stated by the Director in writing shall become conditions of the Agreement.
- D. Concessionaire shall not place any advertising matter, displays or other literature not directly pertaining to a PCS concession or place any signs outside of the Premises.

Section 708. Title to Improvements and Fixtures. All Improvements constructed or placed in the Premises by Concessionaire that are not Removable Fixtures, as well as all alterations, modifications and enlargements thereof shall become part of the Premises with title vesting to the City upon expiration or earlier termination of this Agreement. This vesting of title is subject to Concessionaire's obligation to operate, repair, maintain and replace, and its right of possession, use and occupancy during the term and in accordance with this Agreement.

All Removable Fixtures shall remain the property of Concessionaire, and shall be removed by Concessionaire at date of expiration or early termination of this Agreement. Within sixty (60) days of the commencement of the operation in the Premises, a list of such Removable Fixtures shall be submitted in writing to the Director by Concessionaire for the Director's approval, and such list shall be periodically updated by Concessionaire.

The City reserves the right and Concessionaire agrees that the Director may require Concessionaire to promptly and timely remove any or all Improvements and structures and restore the Premises to their original condition at the time Concessionaire first took possession of the Premises. Concessionaire agrees to bear all costs of such removals and restorations.

ARTICLE VIII USE OF PREMISES

Section 801. Compliance with Laws and Regulations. Concessionaire shall comply with all rules and regulations which the Director may establish from time to time. In addition, Concessionaire shall comply with all statutes, laws, ordinances, orders, judgments, decrees, regulations, directions and requirements of all federal, state, City, local and other governmental authorities, now or hereafter applicable to the Premises or to any adjoining public ways, as to the manner of use or the condition of the Premises or of adjoining public ways.

Section 802. USE. Concessionaire shall provide and pay for all repairs and maintenance of the Premises, except the following which shall be the responsibility of the City:

- A. The structural components of the building.
- B. The utility system to the point of Concessionaire's connection to the utility system, except where the utility systems are owned or controlled by the utility companies.
- C. The washing of the exterior of windows in the terminal building.

Concessionaire shall perform the following functions as part of its responsibilities in the repair and maintenance of the Premises. The following list includes certain functions but Concessionaire's responsibilities are not limited to those functions:

- A. Perform custodial services daily.
- B. Keep all its equipment and fixtures in good repair and appearance.
- C. Keep the Premises free from all fire and other hazards to persons and property and furnish and maintain adequate portable fire protection equipment.
- D. Repair all damage to the Premises and the Airport when such damage results from the careless or negligent acts of Concessionaire or Concessionaire's agents or employees.
- E. Provide for complete, sanitary handling and disposal of all trash, garbage and refuse (liquid or solid) in accordance with standards established by the Director applicable to all Airport tenants. Such standards may require the use of special devices including, but not limited to, special containers, compactors and disposal systems. Concessionaire agrees to promptly provide and install same and to abide by such standards.
- F. Confine all handling and holding of Concessionaire's property to the Premises.
- G. Keep all papers and debris picked up daily from the Premises.
- H. Keep the Premises free of all pests, providing such pest control services as required.
- I. No storage will be permitted on the exterior areas of the Premises.

The Director may temporarily or permanently close any roadway or other right-of-way for access to the Premises, so long as another

means of access is provided. Concessionaire understands and agrees that there may be inconveniences caused by construction or renovations of the Airport, and Concessionaire hereby releases and discharges the City from any and all inconvenience claims, liability or causes of action arising out of or incidental to the closing of any right-of-way, including without limitation loss of profit or business, actual, incidental, consequential or special damages.

Section 803. Right to Enter, Inspect and Make Repairs. The City and its authorized officers, agents, employees, contractors, subcontractors and other representatives shall have the right (at such times as may be reasonable under the circumstances and with as little interruption of Concessionaire's operations as is practicable) to enter upon and in the Premises for the following purposes:

- A. To inspect such Premises to determine whether Concessionaire has complied and is complying, with the terms, covenants and conditions of this Agreement.
- B. To perform maintenance and make repairs Concessionaire is obligated, but has failed to do so after the City has given Concessionaire notice to do so, in which event, Concessionaire shall reimburse the City for the cost thereof, plus a charge of fifteen percent (15%) for overhead, promptly upon demand.
- C. To gain access to the mechanical, electrical, utility and structural systems of the Airport for the purpose of maintaining and repairing such systems.
- D. To perform inspections, testing, reporting, surveys, environmental inspections or remediation, studies and assessments during normal business hours.

Section 804. Utilities. Utilities, including electricity, telephone, data lines and video, shall be installed and separately metered at Concessionaire's expense, and shall be invoiced directly to Concessionaire. If the Director determines that it is impossible or unfeasible to separately meter a given utility at a given facility, then Concessionaire shall pay to City an amount of said utility invoice which includes said facility, based on the Director's estimate of Concessionaire's share thereof. The Director's estimate may be based on utility costs of similar concessions by square foot, gross sales or enplanements, or upon some other reasonable criteria. City shall invoice Concessionaire for amounts due and Concessionaire shall pay the same within twenty (20) days of receipt of City's invoice.

Concessionaire shall pay for all costs of other utilities, including but not limited to deposits, installation costs, connection charges, meter deposits and all service charges for telephone and other utility services metered directly to the Premises, regardless of whether or not such utility services are furnished by the City or a utility service company.

If required by building codes or other regulations, Concessionaire shall pay for the cost of installation of fire detection and suppression distribution equipment in the Premises. Concessionaire shall pay for the connection of fire detection equipment up to City provided z-tie boxes. Concessionaire shall pay for the connection of fire suppression equipment up to City provided sprinkler mains and tamper switches.

The City shall not be liable to Concessionaire for damages or any losses for the interruption of any utility service, or for any delay in the supplying or furnishing of any utility service. Concessionaire does hereby release and discharge the City from any and all inconvenience, claims or cause of actions arising out of or incidental to such interruption, including, without limitation, loss of profit or business, actual or incidental, consequential or special damages.

Section 805. Interference to Air Navigation. Concessionaire warrants, represents and agrees that no obstruction to air navigation, as such are defined from time to time by application of the criteria of Part 77 of the Federal Aviation Regulations or subsequent and additional regulations of the Federal Aviation Administration, will be constructed or permitted to remain in or on the Premises. Any obstructions will be immediately removed by Concessionaire at its expense. Concessionaire warrants, represents and agrees not to increase the height of any structure or objects or permit the growth of plantings of any kind or nature whatsoever that would interfere with the line of sight of the control tower and its operations. Concessionaire further warrants, represents and agrees not to install any structures, objects, machinery or equipment that would interfere with the operation of navigation aides or that would interfere with the safe and efficient operations of the Airport, or interfere with the operations of other tenants and users of the Airport.

ARTICLE IX INSURANCE, DAMAGE, AND INDEMNIFICATION

Section 901. Insurance.

- A. General. Concessionaire at all times during the term hereof, shall cause St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their officers, agents and employees to be insured on an occurrence basis against the risk of all claims and demands by third persons for bodily injury (including wrongful death) and property damage arising or alleged to arise out of the activities or omissions of Concessionaire, its officers, agents, and employees pursuant to this Agreement both on the Premises and the Airport.
- B. Risks and Minimum Limits of Coverage. Concessionaire shall procure and maintain the following policies of insurance:
 - 1) Commercial General Liability in an amount not less than two million dollars (\$2,000,000.00). Such coverage shall be single limit liability with no annual aggregate.

- 2) Automobile Liability Insurance. Concessionaire shall provide in an amount not less than two million dollars (\$2,000,000.00) combined single limit per occurrence (for automobiles used by Concessionaire in the course of its performance hereunder, including Concessionaire's non-owned and hired autos). In addition, Concessionaire shall carry excess coverage in the amount of two million dollars (\$2,000,000.00) to Concessionaire automobile liability insurance.
 - 3) Workers' Compensation and Employer's Liability Insurance, in accordance with Missouri laws and regulations. With respect to Workers' Compensation Insurance, if Concessionaire elects to be self-insured, Concessionaire shall comply with the applicable requirements of law. Concessionaire shall require that all its subcontractors or licensees similarly provide such coverage (or qualify as a self-insured) for their respective employees. City, its officers, employees, or agents shall not be liable or responsible for any claims or actions occasioned by Concessionaire's failure to comply with the provisions of this subparagraph and that the indemnification provisions hereof shall apply to this Section. It is expressly agreed that the employees of Concessionaire are not employees of the City for any purpose, and that employees of the City are not employees of Concessionaire.
 - 4) Contents Insurance. Concessionaire shall be solely responsible for obtaining insurance policies that provide coverage for losses of Concessionaire owned property. The City shall not be required to provide such insurance coverage or be responsible for payment of Concessionaire's cost for such insurance.
 - 5) Builders Risk Insurance. During any period of construction or reconstruction for which Concessionaire contracts, Concessionaire shall carry, or shall require its contractor or contractors to carry, a policy of Builders Risk Insurance in an amount sufficient to insure the value of the work. The City shall be named Loss Payee on Builders Risk coverage to the extent of the City's interest therein (except to the extent coverage relates to Concessionaire's equipment and personal property). Concessionaire may elect to self-insure for individual projects with a total cost of Fifty thousand dollars (\$50,000) or less.
 - 6) Other Property Coverage. Concessionaire shall provide an "All Risk" insurance policy providing protection from direct loss arising out of any fortuitous cause other than those perils or causes specifically excluded by norm and which covers Concessionaire's improvements to the Premises, trade fixtures, and equipment. The City shall be named Loss Payee on such coverage to the extent of the City's interest therein (except to the extent coverage relates to Concessionaire's equipment and personal property).
- C. Issuers of Policies. The issuer of each policy required herein shall be a financially sound insurance company authorized to issue insurance policies in the State of Missouri. Acceptable insurers include insurance companies with an "A.M. Best Company" rating of at least an "A," or other insurers or insurance syndicates of similar recognized responsibility.
- 1) Form of Policies. The insurance may be in one or more policies of insurance.
 - 2) Non-waiver. Nothing the City does or fails to do shall relieve Concessionaire from its duties to provide the required coverage hereunder, and the City's actions or inactions shall not be construed as waiving the City's rights hereunder.
 - 3) Insured Parties. Each policy by endorsement, except those for Workers' Compensation, Employer's Liability, shall name the City, its officers, agents, and employees as "additional insured" on the certificate of insurance, including all renewal certificates, to the extent of Concessionaire's indemnification obligations hereunder. Inclusion as an "additional insured" is not intended to, and shall not, make the City a partner or joint venturer with Concessionaire in its operations.
 - 4) Deductibles. Concessionaire shall assume and bear any claims or losses to the extent of any deductible amounts and waives any claim it may ever have for the same against the City, its officers, agents, or employees; provided, however, that nothing herein stated shall diminish Concessionaire's rights or increase Concessionaire's obligations in respect to its undertakings or hold harmless defense and indemnification set forth in Section 903 hereof.
 - 5) Cancellation. Each policy shall expressly state that it may not be cancelled, materially modified or non-renewed unless thirty (30) days advance Notice is given in writing to the City by the insurance company, or authorized representative of Concessionaire.
 - 6) Subrogation. Each policy shall contain an endorsement by which the issuer waives any claim or right in the nature of subrogation to recover against the City, its officers, agents, or employees.
 - 7) Endorsement of Primary Insurance. Each policy hereunder except Workers' Compensation shall be primary insurance to any other insurance available to the Additional Insured and Loss Payee with respect to claims arising hereunder.

- 8) Liability for Premium. Concessionaire shall be solely responsible for payment of all insurance premiums required pursuant to this Agreement, and the City shall not be obligated to pay any premiums; provided, however, that if Concessionaire fails to obtain the insurance as required herein or make premium payments, the City may, without further notification, effect such insurance or make such payments on Concessionaire's behalf and, after Notice to Concessionaire, the City may recover the cost of those payments with the installment of Fees and Charges next due, plus 15% administrative charge, from Concessionaire.
 - 9) Proof of Insurance. Within thirty (30) days of the Effective Date of this Agreement and at any time during the term hereof, Concessionaire shall furnish the City with certificates of insurance. At least 5 days prior to the expiration of any such policy, Concessionaire shall submit to the City a certificate showing that such insurance coverage has been renewed. If such coverage is canceled or reduced, Concessionaire shall, within 15 days after the date of such notice from the insurer of such cancellation or reduction in coverage, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon reasonable notification by the City to Concessionaire, the City shall have the right to examine Concessionaire's insurance policies.
- D. Maintenance of Coverage. Notwithstanding the proof of insurance requirements set forth above, it is the intention of the parties hereto that Concessionaire, continuously and without interruption, maintain in force the required insurance coverages set forth above.
- E. City Right to Review and Adjust Coverage Limits. The City reserves the right at reasonable intervals during the term of this Agreement to cause the insurance requirements of this Article to be reviewed, at its sole cost, by an independent insurance consultant experienced in insurance for public airports, taking into consideration changes in statutory law, court decisions, or the claims history of the airline industry as well as that of Concessionaire, and, based on the written recommendations of such consultant, and in consultation with Concessionaire, to reasonably adjust the insurance coverages and limits required herein but not more often than every twenty-four (24) months.

Section 902. Concessionaire Actions Affecting Insurance. Concessionaire shall not knowingly do or permit to be done anything, either by act or failure to act, that may cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that may cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If such Concessionaire's act, or failure to act, causes cancellation of any policy, then Concessionaire shall immediately, upon notification by the City, do whatever is necessary to cause reinstatement of said insurance. Furthermore, if Concessionaire does or permits to be done any act or fails to do any act which causes an increase in the City's insurance premiums, Concessionaire shall immediately remedy such actions and/or pay the increase in premiums, upon Notice from the City to do so; but in any event, Concessionaire will hold the City harmless for any expenses and/or damage resulting from any such action.

Section 903. Damage to Premises.

- A. Minor Damage. If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is partially damaged by fire or other casualty, but said circumstances do not render the Premises untenable as determined by the City, the same shall be repaired to usable condition with due diligence by the City as provided in this Section.
- B. Substantial Damage. If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is so extensively damaged by fire, or other casualty, as to render any portion of said Premises untenable but capable of being repaired, as determined by the City, the same shall be repaired to usable condition with due diligence by the City as provided in this Section. In such case, the fees payable hereunder with respect to affected Premises shall be paid up to the time of such damage and shall thereafter be abated ratably in the proportion that the untenable area bears to the total Premises of the same category or type of space. Such abatement in fees will continue until the affected Premises are restored adequately for Concessionaire's use. The City shall use its best efforts to provide alternate facilities to continue Concessionaire's operation while repair, reconstruction, or replacement is being completed, at a rental rate not to exceed that provided herein for comparable space, provided that Concessionaire's rental costs shall not increase as a result of any such alternate facilities unless Concessionaire requests additional space and/or space replacement of a classification at higher rental rates concurrent with such reassignment to alternate facilities.
- C. Total Damage.
 - 1) If any part of the Premises, or adjacent facilities directly and substantially affecting the use of the Premises, is damaged by fire or other casualty, and is so extensively damaged as to render any portion of said Premises incapable of being repaired, as determined by the City, the City shall notify Concessionaire as soon as practicable under the circumstances after the date of such damage of its decision whether to reconstruct or replace said space. However, the City shall be under no obligation to replace or reconstruct such premises. The fees payable hereunder with respect to affected Premises shall be paid up to the time of such damage and thereafter shall cease until such time as replacement

or reconstructed space shall be available for use by Concessionaire.

- 2) If the City elects to reconstruct or replace affected Premises, the City shall use its best efforts to provide alternate facilities to continue Concessionaire's operation while repair, reconstruction, or replacement is being completed, at a rental rate not to exceed that provided herein for comparable space. However, if such damaged space shall not have been replaced or reconstructed, or the City is not diligently pursuing such replacement or reconstruction, within six (6) months after the date of such damage or destruction, Concessionaire shall have the right, upon giving the City thirty (30) days advance Notice, to delete the affected Premises from this Agreement, but this Agreement shall remain in effect with respect to the remainder of said Premises, unless such damaged or destroyed premises prevent Concessionaire from operating its PCS concession at the Airport.
- 3) If the City elects not to reconstruct or replace affected Premises, the City shall meet and consult with Concessionaire on ways to permanently provide Concessionaire with adequate replacement space for affected Premises. Concessionaire shall have the right, upon giving the City thirty (30) days advance Notice, to delete the affected Premises from this Agreement, but this Agreement shall remain in full force and effect with respect to the remainder of said Premises, unless the loss of such premises prevents Concessionaire from operating its PCS concession at the Airport.

D. Scope of Restoration of Premises.

- 1) The City's obligations to repair, reconstruct, or replace affected Premises under the provisions of this Section shall in any event be limited to using due diligence and best efforts to restore affected Premises to substantially the same condition that existed prior to any such damage and shall further be limited by the provisions of Subsections 903 A-C. If the City elects to repair, reconstruct, or replace affected premises as provided in this Section, then Concessionaire shall proceed with due diligence and at its sole cost and expense to repair, reconstruct, or replace its signs, fixtures, furnishings, Equipment, and other items provided or installed by Concessionaire in or about the Premises in a manner and in a condition at least equal to that which existed prior to said damage or destruction.
- 2) In lieu of the City's repair, reconstruction, or replacement of the affected premises, as provided in this Section, if Concessionaire requests to perform said function with respect to damage under Subsections 903 A and B, the City may, in its sole discretion, allow Concessionaire to do so. Any such work by Concessionaire must be done in accordance with the requirements of Section 701. The City shall reimburse Concessionaire for the cost of such work performed by Concessionaire. Concessionaire shall be considered to be doing such work on its own behalf and not as an agent or contractor of the City.

E. Damage From Concessionaire Negligence. Notwithstanding the provisions of this Section, if damage to or destruction of the Premises is due to the negligent or willful acts of Concessionaire, its agents, servants, or employees, or those under its control, there shall be no abatement of fees during the restoration or replacement of said Premises. In addition, Concessionaire shall have no option to delete the affected Premises from this Agreement. To the extent that the costs of repairs pursuant to this Section shall exceed the amount of any insurance proceeds payable to the City by reason of such damage or destruction, Concessionaire shall pay the amount of such additional costs to the City.

Section 904. Indemnification. Concessionaire shall defend, indemnify, and hold harmless St. Charles County, Missouri, St. Clair County, Illinois, St. Louis County, Missouri, the City, their respective officers, agents and employees (the "**Indemnified Parties**") from and against any and all loss, liability, penalties, damages of whatever nature, causes of action, suits, claims, demands, judgments, injunctive relief, awards, settlements, costs, and expenses, including payments of claims of liability resulting from any injury or death of any person or damage to or destruction of any property including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' fees, court costs and expert fees) of any nature, arising out of and in connection with this Agreement, the conduct of a PCS concession, or Concessionaire's use of its Premises or other areas or facilities at the Airport by Concessionaire, its agents, employees, contractors, or subcontractors, including, but not limited to:

- A. The acts or omissions of Concessionaire, its agents, employees, contractors, or suppliers;
- B. Concessionaire's use or occupancy of the Airport and the Premises; and
- C. Any violation by Concessionaire in the conduct of Concessionaire's PCS concession or its use of its Premises or other areas or facilities at the Airport of any provision, warranty, covenant, or condition of this Agreement.

Concessionaire shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

Concessionaire shall defend, indemnify, pay, and hold harmless the Indemnified Parties from and against all applicable taxes and assessments for which the City may become liable and which by law may be levied or assessed on the Premises, or which arise out of the operations of Concessionaire or by reason of Concessionaire's occupancy of its Premises except for any taxes or assessments based on the gross or net income or gross or net receipts of the City that are not allocable to concession-related receipts. Concessionaire may, at its own risk, cost, and expense, and at no cost to the City, contest, by appropriate judicial or administrative

proceedings, the applicability or the legal or constitutional validity of any such tax or assessment, and the City will, to the extent permitted by law, execute such documents as are necessary to permit Concessionaire to contest or appeal the same. Concessionaire shall be responsible for obtaining bills for all of said taxes and assessments directly from the taxing authority and shall promptly deliver to the City, upon request by the City, copies of receipts of payment. If the City receives any tax billings falling within the scope of this paragraph, it will forward said billings to Concessionaire. Concessionaire shall, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not.

Concessionaire shall defend, indemnify, and hold harmless the Indemnified Parties from and against any claim, suit, demand, action, liability, loss, damage, judgment, or fine, and all costs and expenses of whatever kind or nature associated therewith in any way arising from or based in whole or substantial part upon claim or allegation of a violation of any federal, state, or local laws, statutes, resolutions, regulations, ordinance, or court order affecting the Airport, by Concessionaire, its agents, employees, contractors, or suppliers, in conjunction with Concessionaire's use and/or occupancy of the Premises or its operations at the Airport. Concessionaire will, at its own cost and expense, defend all such claims, demands and suits, whether frivolous or not. Concessionaire shall include the substance of this Subsection (C) in every sublease, contract or other agreement which Concessionaire may enter into related to its activities at the Airport, and any such sublease, contract or other agreement shall specifically provide that the City is a third-party beneficiary of this and related provisions. This provision does not constitute a waiver of any other condition of this Agreement prohibiting or limiting assignments, subletting or subcontracting.

If a prohibited incursion into the air operations area occurs, or if the Airfield Operations Area or sterile area security is breached, by or due to the negligence or willful act or omission of any of Concessionaire's employees, agents, contractors, or suppliers, and such incursion or breach results in a civil penalty action against the City, Concessionaire shall assume the defense of any such action and be responsible for any civil penalty or settlement amount required to be paid by the City as a result of such incursion or breach. The City shall notify Concessionaire of any allegation, investigation, or proposed or actual civil penalty sought for such incursion or breach. Civil penalties and settlement and associated expenses reimbursable under this paragraph include but are not limited to those paid or incurred as a result of violation of FAA or TSA regulations or security directives.

Concessionaire's obligation to defend and indemnify past officers, employees, and agents of the City shall apply to such persons only for claims, suits, demands, actions, liability, loss, damages, judgments, or fines arising from events, occurrences, and circumstances during which said officers, employees, and agents held their office or position with the City.

The City shall promptly notify Concessionaire of each claim, action, proceeding, or suit in respect of which indemnity may be sought by the City against Concessionaire hereunder, setting forth the particulars of such claim, action, proceeding or suit; shall furnish Concessionaire with a copy of all judicial filings and legal process and any correspondence received by the City related thereto; and shall tender the defense of same to Concessionaire.

The duty to defend, indemnify, hold harmless, and reimburse shall apply to any claim, demands, or suits made against the City for which Concessionaire is responsible pursuant to this Section. Provided, however, that upon the filing by anyone of a claim with the City for damages arising out of incidents for which Concessionaire herein agrees to indemnify and hold the City harmless, the City shall promptly notify Concessionaire of such claim and, if Concessionaire does not settle or compromise such claim, then Concessionaire shall undertake the legal defense of such claim both on behalf of Concessionaire and on behalf of the City, at Concessionaire's expense; provided, however, that Concessionaire shall immediately notify City if a conflict between the interests of Concessionaire and City arises during the course of such representation. Concessionaire shall use counsel reasonably acceptable to the City Counselor of the City or his or her designee, after consultation with the Director, in carrying out its obligations hereunder. The provisions of this section shall survive the expiration or early termination of this Agreement. It is specifically agreed, however, that the City, at its option and at its own expense, may participate in the legal defense of any claim defended by Concessionaire in accordance with this Section. Any final judgment rendered against the City for any cause for which Concessionaire is liable hereunder shall be conclusive against Concessionaire as to amount upon the expiration of the time for appeal there from. Nothing in this Article shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim of legal liability against the City. This Section shall not be construed as a waiver of the City's sovereign or other immunity.

The City, at its own expense except as otherwise provided herein, shall be invited to attend and participate in all meetings (including those related to settlement) and to appear and participate in all judicial proceedings and to the extent of its interests, approve, in writing, the terms of any settlement related to any claim, action, proceeding or suit set forth in this Section.

Notwithstanding the provisions of this Section, Concessionaire shall have no obligation to defend, indemnify, or hold harmless the City for any consequential damages or for any amounts to be paid in connection with losses, liabilities, penalties, damages of whatever nature, causes of action, suits, claims, demands, injunctive relief, judgments, awards and settlements if the City is conclusively determined to be more than fifty percent (50%) liable due to contributory negligence.

This Section shall survive the expiration or early termination of this Agreement. Concessionaire understands and agrees that any insurance protection furnished by Concessionaire pursuant to Section 901 shall in no way limit Concessionaire's responsibility to indemnify and hold harmless the City under the provisions of this Agreement.

Section 905. City Not Liable. Unless otherwise expressly provided for in this Agreement, the City shall not in any event be liable to Concessionaire for:

- A. Any acts or omissions of Concessionaire, its officers, directors, employees, agents, contractors, or suppliers, or for any conditions resulting from the operations or activities of Concessionaire's directors, officers, employees,

- agents, contractors, or suppliers;
- B. Concessionaire's failure to perform any of the obligations hereunder or for any delay in the performance thereof;
 - C. Any environmental condition in existence at the Airport, or any part thereof, which condition may interfere with Concessionaire's business or other operations or activities, or which might otherwise cause damages to Concessionaire through loss of business, destruction of property, or injury to Concessionaire, its officers, directors, employees, agents, contractors, suppliers, passengers, invitees, or licensees except to the extent such conditions are caused by the City, its employees or agents; or
 - D. Bodily injury or any loss or damage to real or personal property or business income occasioned by flood, fire, smoke, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, vandalism, malicious mischief, or acts of war or terrorism, or for any injury, loss or damage not caused by the negligence, willful misconduct, or bad faith of the City.

ARTICLE X
ASSIGNMENT AND SUBCONTRACTING

Section 1001. Assignment and Subcontracting.

- A. Concessionaire shall not assign or transfer this Agreement. In the event there is an assignment of this Agreement by operation of law, the City shall be entitled within ninety (90) days after written notice thereof to exercise the City's option hereby given to terminate this Agreement no sooner than thirty (30) days after the date of such determination by the City. An assignment by operation of law, as the term is used herein, shall include but not be limited to the vesting of Concessionaire's right, title and interest in the Concessionaire's furnishings, Removable Fixtures, or Concessionaire's interest in this Agreement, as a trustee in bankruptcy or as an assignee for the benefit of creditors or in a purchase thereof at a judicial sale or other involuntary or forced sale. It is the purpose of the foregoing provision to prevent the vesting in any such purchaser, referee, trustee, or assignee, any rights, title or interest in the City premises or any of the Removable Fixtures, except subject to the City's right to terminate this Agreement.
- B. Concessionaire shall not sublet the Premises and/or subcontract or transfer any part of the services to be performed hereunder, except as may be necessary to comply with the ACDBE participation goal in Article XII of this Agreement. At least sixty (60) days prior to any contemplated subletting of the Premises or subcontracting of this Agreement, Concessionaire must submit a written request to the Director. This request must include a copy of the proposed subcontract or sublease. Any sublease for space or subcontract or granting of rights acquired hereunder shall be subject to the review and written approval of the Director. Such sublease or subcontract, however, must require at a minimum: (i) strict compliance with all provisions of this Agreement; (ii) a provision that the sublessee or subcontractor will use the facilities solely for the purposes identified in this Agreement; and (iii) a provision ensuring that all concession services are available during the hours of operation required in Section 602 of this Agreement.

The parties understand and agree that Concessionaire is responsible for the performance of its assignees, sublessees, and subcontractors under this Agreement. Concessionaire agrees to initiate and take all corrective action should a subcontractor or sublessee fail to comply with its contract with the Concessionaire or any provision of this Agreement. There will be no reduction of the Minimum Annual Guarantee payable to the City during any such period of change-out or vacancy of a subcontractor or sublessee.

- C. No subcontract, sublease, or other agreement shall be effective as it pertains to the City until such time as the City receives a fully executed copy of the approval, subcontract, sublease or agreement as provided for above. Any such assignment or transfer or subcontract of services or the subletting of the Premises without the consent of the City, as provided for above, shall constitute a default on the part of Concessionaire under this Agreement, and the City may terminate this Agreement as provided for in Section 1103. No action or failure to act on the part of any officer, agent or employee of the City shall constitute a waiver by the City of this provision.

ARTICLE XI
TERMINATION OF AGREEMENT IN ENTIRETY

Section 1101. City's Right to Terminate. The City, acting by and through its Director, may declare this Agreement terminated in its entirety, in the manner provided in Section 1103 hereof, upon the happening of any one or more of the following events. By example, but not by way of limitation, the following acts or omissions shall constitute a material breach thereby justifying the termination of this Agreement in its entirety.

- A. If the fees, charges, or other money payments which Concessionaire herein agrees to pay, or any part thereof, shall be unpaid after the date the same shall become due.
- B. If during the term of this Agreement, Concessionaire shall:

- 1) Apply for, or consent to the appointment of a receiver, trustee or liquidator of all or a substantial part of its assets;
- 2) File a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they come due;
- 3) Make a general assignment for the benefit of creditors;
- 4) File a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of an insolvency law;
- 5) File an answer admitting the material allegations of a petition filed against any said assignee or sublessee in any bankruptcy, reorganization or insolvency proceedings; or if during the term of this Agreement, an order, judgment or decree shall be entered by any court of competent jurisdiction; or the application of a creditor, adjudicating Concessionaire as bankrupt or insolvent; or approving a petition seeking a reorganization of Concessionaire, and such order, judgment or decree, shall continue unstayed and in effect for any period of ninety (90) consecutive days;
- 6) Fail to maintain the quality of services and prices to the satisfaction of the Director as required hereunder;
- 7) Fail to prevent cessation or deterioration of service for a period which, in the opinion of the Director, materially and adversely affects the overall performance of Concessionaire under this Agreement;
- 8) Allow a lien to be filed against Concessionaire or any of the Equipment or furnishings therein because of or resulting from any act or omission of Concessionaire that is not removed or enjoined within thirty (30) days;
- 9) Desert, vacate or discontinue all or a portion of its operation of the Premises that in the opinion of the Director results in a failure to provide the public and others the service contemplated hereunder;
- 10) Fail in the performance of any term, covenant or condition herein required to be performed by Concessionaire.

On the date set forth in the notice of termination, the term of this Agreement and all right, title and interest of Concessionaire shall expire, except as otherwise provided in Section 1103 hereof.

Failure of the City to take any authorized action upon default of any term, covenant or condition required to be performed, kept and observed by Concessionaire shall not be construed to be or act as a waiver of default or in any subsequent default of any term, covenant or condition herein contained to be performed, kept and observed by Concessionaire. The acceptance of monies by the City from Concessionaire for any period or periods after a default by Concessionaire of any term, covenant or condition herein required to be performed, kept and observed by Concessionaire shall not be deemed a waiver or estopping of any right on the part of the City to terminate this Agreement for failure by Concessionaire to so perform, keep or observe any said term, covenant or condition.

Section 1102. Concessionaire's Right to Terminate. Concessionaire, at its option, may declare this Agreement terminated in its entirety, in the manner provided in Section 1103 hereof for the following causes:

- A. If a court of competent jurisdiction issues an injunction or restraining order against the City preventing or restraining the use of the Airport for Airport purposes in its entirety or in substantial entirety.
- B. If the City shall have abandoned the Airport for a period of at least sixty (60) days and shall have failed to operate and maintain the Airport in such manner as to permit landings and takeoffs of planes by scheduled air carriers.
- C. If the City shall have failed in the performance of any specific covenant constituting a material breach within the control of the City and required by this Agreement to be performed by the City.

Section 1103. Procedures for Termination. No termination declared by either party shall be effective unless and until not less than forty-five (45) days have elapsed after written notice by either party to the other specifying the date and cause of termination. No such termination shall be effective if the party at default (i) cannot by the nature of the default cure it within such forty-five (45) day period; (ii) commences to diligently correct such default within such forty-five (45) day period; and (iii) corrects such default as is reasonably practicable. Notwithstanding the foregoing, the effective date for termination shall be thirty (30) days after written notice by City to Concessionaire for failure to make any payment when due, or for failure to provide the security for performance as specified in Article V or for failure to provide any insurance coverage as specified in Article IX unless cured in such thirty (30) days after written notice by City to Concessionaire.

Section 1104. Rights Cumulative. It is understood and agreed that the rights and remedies of the City and Concessionaire specified in this Article are not intended to be and shall not be exclusive of one another or exclusive of any common law right of either of the

parties hereto or any other remedies otherwise available to the parties at law or in equity.

ARTICLE XII
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

Section 1201. Compliance.

- A. Concessionaire agrees as a condition hereunder to meet a minimum ACDBE participation goal of not less than thirty percent (30%) participation in the ownership, management and control of the business by the methods of participation allowed by DOT 49 CFR Part 23. The goal shall be measured as a percentage of total Gross Receipts. The goal remains in effect throughout the term of the Agreement and credit toward the ACDBE goal will only be given for the use of MRCC certified ACDBEs.

Concessionaire submitted at the time of the Bid, evidence that it completed the applicable Good Faith Efforts procedure specified in the Solicitation for Bids for a PCS Concession.
- B. If these Good Faith Efforts resulted in the fulfillment of the ACDBE goal, Concessionaire will not be required to perform additional Good Faith Efforts, except in the event that Concessionaire’s ACDBE participation fails to continue to meet the goal or comply with the applicable federal regulations. In the event Concessionaire’s ACDBE participation fails to continue to meet the goal or comply with applicable federal regulations, Concessionaire will be required to perform the Good Faith Efforts procedure specified in the applicable federal regulations for the type of participation sought within three (3) months following the loss of ACDBE participation and continue at intervals of not less than twelve (12) months, or until the ACDBE goal is reached by Concessionaire.
- C. If these Good Faith Efforts did not result in fulfillment of the ACDBE goal, Concessionaire must again complete the Good Faith Efforts procedure specified in the applicable federal regulations for the type of participation sought within three (3) months following commencement of the term of this Agreement and continue at intervals of not less than twelve (12) months, or until the ACDBE goal is reached by Concessionaire.
- D. This Agreement is subject to the requirements of the U.S. Department of Transportation’s regulations 49 CFR Part 23. The Concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner’s race, color, national origin or sex in connection with the award or performance of any concession agreement management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The Concessionaire or contractor agrees to include the above statements in any agreements or contracts covered by 49 CFR 23 that it enters and cause those businesses to similarly include the statements in further agreements.
- E. Concessionaire shall operate its PCS concession in compliance with all other requirements imposed by or pursuant to 49 CFR Part 23, as applicable, and as said regulations may be amended or new regulations promulgated. Concessionaire shall also comply with any City of St. Louis executive orders, resolutions or ordinances enacted, now or in the future, to implement the foregoing federal regulations, as applicable. In the event of breach of any of the above covenants, the City shall have the right to terminate this Agreement.

ARTICLE XIII
LIQUIDATED DAMAGES

Section 1301. Liquidated Damages. Concessionaire recognizes and hereby agrees and stipulates that the City will lose revenue and/or incur certain cost or expense, the amounts of which are difficult to ascertain, if Concessionaire defaults or breaches any of the terms, covenants or conditions enumerated below. Therefore, the Concessionaire agrees and stipulates that the Director, on behalf of the City, may elect after written notice to the Concessionaire of said default or breach to impose the charges set forth below as liquidated damages on the basis of each default or breach. The first default or breach in any category will result in a warning letter. The second default or breach will require Concessionaire to pay liquidated damages in the amount listed below. For the third default or breach in the same category, Concessionaire will pay City liquidated damages in the amount listed below. For the fourth and each subsequent cumulative default or breach, Concessionaire shall pay to City the third default or breach amount plus an additional one hundred percent (100%). Such liquidated damages shall be due and payable by the Concessionaire within thirty (30) days of the City's request or notice. The stated defaults or breaches in this Section 1301 are cumulative over the term of this Agreement and are in addition to any other remedies City may have under this Agreement or at law or inequity. For any defaults or breaches specified in this section with associated liquidated damages, the City agrees to provide immediate written notice via facsimile and overnight courier of any such default or breach and the amount of liquidated damages due and payable to the City.

BREACH OR DEFAULT		SECOND BREACH	THIRD BREACH
A.	Unapproved equipment or placement of equipment in areas not authorized by City.	\$500.00	\$750.00

B.	Late monthly reporting of gross receipts in breach of Article V.	\$25.00 per day	\$50.00 per day
C.	Failure to deliver on time required items such as reports, schedules, manuals or other materials as specified in this Agreement.	\$200.00	\$300.00
D.	Other non-monetary defaults that disrupt operations, traffic in terminal or customer service.	\$500.00	\$750.00
E.	Inoperable equipment or equipment not repaired within 15 days of notice to Concessionaire.	\$200.00	\$300.00
F.	Late annual financial reporting in violation of Article V.	\$50.00 per day	\$100.00 per day

ARTICLE XIV
MISCELLANEOUS PROVISIONS

Section 1401. Notice. Except as herein otherwise expressly provided, all notices required to be given to the City hereunder shall be in writing and shall be sent by certified mail, return receipt requested, to the Director of Airports, St. Louis Airport Authority, 10701 Lambert International Boulevard, P.O. Box 10212 Lambert Station, St. Louis, MO 63145. **A copy of all notices shall also be mailed to the Airport Properties Manager at the same address.** All notices, demands and requests by the City to Concessionaire shall be sent by certified mail, return receipt requested addressed to:

Power Station LLC
Mr. Henry Mauriss
333 City Boulevard West
Suite 1700
Orange, CA 92868

Either or both parties may designate in writing from time to time any changes in addresses or any addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notice shall be the date such notice is mailed to Concessionaire or said Director.

Section 1402. Non-Discrimination and Affirmative Action Program.

- A. Concessionaire hereto understands and agrees that the City in the operation and use of Lambert-St. Louis International Airport® will not on the grounds of race, creed, color, religion, sex, national origin or ancestry, discriminate or permit discrimination against any person or group of persons in a manner prohibited by Part 21 of the Federal Aviation Regulations of the Office of the Secretary of Transportation. Concessionaire hereby agrees that his premises shall be posted to such effect as required by said regulations.
- B. Concessionaire agrees that in performing under this Agreement, neither he nor anyone under his control will permit discrimination against any employee, worker or applicant for employment because of race, creed, color, religion, sex, national origin or ancestry. Concessionaire will take affirmative action to insure that applicants are employed and that employees are treated fairly without regard to race, creed, color, religion, sex, national origin or ancestry. Such action must include, but shall not be limited to the following: actions to bar, employ, upgrade or recruit, expel, discharge, demote or transfer, layoff, terminate or create intolerable working conditions, rates of pay or other forms of compensation and selection for training, including apprenticeship.
- C. Concessionaire will in all printed or circulated solicitations or other advertisement or publication for employees placed by or on behalf of the Concessionaire state that all qualified applicants shall receive meaningful consideration for employment without regard to race, creed, color, religion, sex, national origin or ancestry. All advertisements or solicitations for applicants for employment must contain the phrase "An Equal Opportunity Employer". Concessionaire shall not make inquiry in connection with prospective employment which expresses directly or indirectly any limitation, specification or discrimination because of race, creed, color, religion, sex, national origin or ancestry.
- D. Concessionaire will permit reasonable access by the City to such persons, reports and records as are necessary for the purpose of ascertaining compliance with fair employment practices.
- E. Concessionaire further agrees that these clauses (B through D) covering discrimination and equal opportunity practices in all matters of employment and training for employment will be incorporated by Concessionaire in all contracts or agreements he enters into with suppliers of materials or services, contractors and subcontractors, including all labor organizations who may furnish skilled, unskilled and craft union skilled labor, or who may perform any such labor or service in connection with this Agreement.
- F. Whenever Concessionaire is sued by a subcontractor, vendor, individual, group or association as a result of compliance with the clauses (A through E) of these provisions relating to fair employment practices,

- Concessionaire shall notify the City Counselor in writing of such suit or threatened suit within ten (10) days.
- G. Concessionaire will establish and maintain for the term of this Agreement an affirmative action program according to the Mayor's Executive Order on Equal Opportunity in Employment. The City reserves the right to take such action as the City of St. Louis and the United States Government may direct to enforce the above covenants.
- H. Concessionaire assures that it will undertake an affirmative action program as required by 14 CFR, Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, religion, sex, national origin or ancestry be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. Concessionaire assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Concessionaire assures that it will require that its covered sub organizations provide assurances to the City that they similarly will undertake affirmative action programs and that they will require assurances from their sub organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.
- I. This Agreement is subject to the requirements of the U.S. Department of Transportation's regulation, 49 CFR Part 23. The Concessionaire or contractor agrees that it will not discriminate against any business owner because of owner's race, color, national origin or sex in connection with the performance of any concession agreement, management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR 23.
- J. The Concessionaire or contractor agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR 23 that it enters and cause those businesses to similarly include the statement in further agreements.

Section 1403. No Personal Liability. No Alderman, Commissioner, Director, officer, agent or employee of either party shall be personally liable under or in connection with this Agreement.

Section 1404. Force Majeure. Neither the City nor Concessionaire shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, acts of the public enemy, act of superior governmental authority, weather conditions, riots, rebellion, or sabotage, or any other circumstances for which it is not responsible and which is not within its control.

Section 1405. Successors and Assigns. All of the terms, provisions, covenants, stipulations, conditions and considerations of this Agreement shall extend to and bind the legal representatives, successors, sublessees and assigns of the respective parties hereto.

Section 1406. Quiet Enjoyment. Subject to the terms, covenants and conditions of the Agreement, the City covenants that Concessionaire, on paying the fees and otherwise performing its covenants and other obligations hereunder, shall have quiet and peaceable possession of the Premises.

Section 1407. Operation and Maintenance of the Airport. The City shall at all times operate the Airport properly and in a sound and economical manner; and the City shall use reasonable effort to maintain, preserve and keep the same or cause the same to be maintained, preserved and kept with the appurtenances in good repair, working order and condition, and shall from time to time use reasonable effort to make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the Airport may be properly and advantageously conducted in conformity with standards customarily followed by municipalities operating airports of like size and character.

Section 1408. Title to the Site. The Premises from the date hereof until the expiration or early termination of this Agreement shall be owned in fee simple title by the City or in such lesser estate as in the opinion of the City Counselor is sufficient to permit the letting thereof by the City as herein provided for the full term provided in this Agreement.

Section 1409. Agreements with the United States. This Agreement is subject and subordinate to the provisions of any agreements heretofore made between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of Federal rights or property to the City for Airport purposes, or to the expenditure of Federal funds for the extension, expansion, or development of the Airport, including the expenditure of Federal funds for the development of the Airport in accordance with the provisions of the Airport and Airway Development Act as it has been amended from time to time.

Section 1410. Modifications for Granting FAA Funds. In the event that the Federal Aviation Administration requires, as a condition precedent to granting of funds for the improvement of the Airport, modifications or changes to this document, Concessionaire agrees to consent to such reasonable amendments, modifications, revisions, supplements, deletions of any of the terms, conditions, or requirements of this Agreement, as may be reasonably required to enable the City to obtain said Federal Aviation Administration funds, provided that in no event shall such changes substantially impair the rights of Concessionaire hereunder.

Section 1411. Governing Law. This Agreement shall be deemed to have been made in and be construed in accordance with the laws of the State of Missouri, and is subject to the City's Charter and ordinances, as they may be amended from time to time.

Section 1412. Headings. The headings of the Articles and Sections of this Agreement are inserted only as a matter of convenience

and reference and in no way define, limit or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

Section 1413. Amendments. This Agreement may be amended from time to time by written agreement, duly authorized and executed by representatives of all the parties hereto.

Section 1414. Previous Agreements. It is expressly understood that the terms and provisions of this Agreement shall in no way affect or impair the terms, obligations or conditions of any existing or prior agreement between Concessionaire and the City.

Section 1415. Required Approvals. When the consent, approval, waiver, or certification (**Approval**) of other party is required under the terms of this Agreement, such Approval must be in writing and signed by the party Approving. Whenever the Approval of the City or the Director is required, the Approval must be from the Director or his/her authorized or designated representative. The City and Concessionaire agree that extensions of time for performance may be made by the written mutual consent of the Director and Concessionaire or its designee. Whenever the approval of the City, or the Director, or of Concessionaire is required herein, no such approval shall be unreasonably requested or withheld.

Section 1416. Waivers. No waiver of default by either party of any of the terms, covenants and conditions hereto to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms, covenants or conditions herein contained to be performed, kept and observed by the other party. Any waiver must be in writing and signed by the party waiving.

Section 1417. Invalid Provisions. In the event any term, covenant, condition or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of any such term, covenant, condition or provision does not materially prejudice either the City or Concessionaire in its respective rights and obligations contained in the valid terms, covenants, conditions and provisions of this Agreement.

Section 1418. Entire Agreement. This Agreement, together with all exhibits attached hereto and documents incorporated by reference, constitute the entire Agreement between the parties hereto and all other representations or statements heretofore made, verbal or written, are merged herein and this Agreement may be amended only in writing and executed by duly authorized representatives of the parties hereto.

Section 1419. Not a Lease. This Agreement is not a lease, and the right to use the Premises is entirely dependent upon the rights and privileges granted hereunder. Concessionaire will in no instance be deemed to have acquired any possessory rights against the City or the Premises or be deemed to be a tenant of the City.

Section 1420. Advertising. Concessionaire shall have no right to use the trademarks, symbols, trade names or name of the Airport or Premises, either directly or indirectly, in connection with any production, promotion service or publication without the prior written consent of the Director.

Section 1421. Conflicts Between Tenants. In the event of a conflict between Concessionaire and any other tenant, licensee or concessionaire, as to the respective rights of the others, the Director shall review the applicable agreements and by reasonable interpretation thereof determine the rights of each party, and Concessionaire agrees to be bound by such decision. All determinations by the Director are final and binding.

Section 1422. Prevailing Wage. Concessionaire shall, as a condition of the Agreement, include in all service contracts pertaining to the Premises, language specifying the minimum prevailing wages to be paid and fringe benefits to be provided by the service contractor to employees of said service contractor. This section is in accordance with and is subject to City Ordinance No. 62124.

Section 1423. Solicitation for Bid. Concessionaire's Bid, including all exhibits, schedules, addenda, attachments, policies, bonds, letters of credit and the Solicitation for Bids for a PCS concession at the Airport dated July 31, 2008 is hereby made a part of this Agreement and is incorporated herein by reference. If an express provision of this Agreement or the Exhibits attached hereto is in conflict with any provision of Concessionaire's Bid or the Solicitation for Bids referred to above, the provisions of this Agreement shall prevail.

Section 1424. Americans with Disabilities Act (ADA). Concessionaire shall be responsible for compliance with the Federal ADA, plus any federal, state, or local laws or regulations and City Ordinances pertaining to the disabled individual having access to Concessionaire's services.

Section 1425. Time is of the Essence. Time is of the essence in this Agreement. The parties agree that time shall be of the essence in the performance of each and every obligation and condition of this Agreement.

Section 1426. Acknowledgment of Terms and Conditions. The parties affirm each has full knowledge of the terms, covenants, conditions and requirements contained in this Agreement. As such, the terms of this Agreement shall be fairly construed and the usual rule of construction, if applicable, to the effect that any ambiguities herein should be resolved against the drafting party, shall not be employed in the interpretation of this Agreement or any amendments, modifications or exhibits thereto.

Section 1427. Security Plan and Facilities. Concessionaire hereby acknowledges that the City is required by the TSA regulation 1542

to adopt and put into use facilities and procedures designed to prevent and deter persons and vehicles from unauthorized access to Airfield Operations Areas (AOA). The City has met said requirements by developing a master security plan for the Airport, and Concessionaire covenants and agrees to be fully bound by and immediately responsive to the requirements of the plan in connection with Concessionaire’s exercise of the privileges granted to Concessionaire hereunder. Concessionaire will, within thirty (30) days of the City’s request, reimburse the City for all fines or penalties imposed upon City by the TSA or the FAA resulting from Concessionaire’s negligence or failure to act in relation to TSA regulation 1542 or any other applicable airport security regulations.

Section 1428. Environmental Notice. Concessionaire shall promptly notify the Director of (i) any change in the nature of the Concessionaire’s operations on the Premises that will materially and/or substantially change the Concessionaire’s or City’s potential obligations or liabilities under the environmental laws; or (ii) the commencement by any governmental entity of a formal administrative proceeding before an administrative law judge or a civil or criminal action before a judicial tribunal alleging a violation of any environmental law in connection with Concessionaire’s operations on the Premises.

Section 1429. Living Wage Compliance Provisions. This Agreement is subject to the St. Louis Living Wage Ordinance No. 65597 (Ordinance) and the “Regulations” associated therewith, as may be amended from time to time. Copies of Ordinance and Regulations may be obtained by contacting Mr. Jack Thomas, City Compliance Official, DBE program Office, P. O. Box 10212, St. Louis, Missouri, 63145-0212 and are incorporated herein by reference. The Ordinance and Regulations require the following compliance measures, and Concessionaire hereby warrants, represents, stipulates and agrees to comply with these measures:

- A. Minimum Compensation: Concessionaire hereby agrees to pay an initial hourly wage to each employee performing services related to this Agreement in an amount no less than the amount stated on the attached Living Wage Bulletin (**Exhibit “B”**), which is incorporated herein. The initial rate shall be adjusted each year no later than April 1, and Concessionaire hereby agrees to adjust the initial hourly rate to the adjusted rate specified in the Living Wage Bulletin at the time the Living Wage Bulletin is issued.
- B. Notification: Concessionaire shall provide the Living Wage Bulletin to all employees, together with a “Notice of Coverage”, in English, Spanish and other languages spoken by a significant number of Concessionaire’s employees within thirty (30) days of Agreement execution for existing employees and within thirty (30) days of employment for new employees.
- C. Posting: Concessionaire shall post the Living Wage Bulletin, together with a “Notice of Coverage”, in English, Spanish and other languages spoken by a significant number of Concessionaire’s employees, in a prominent place in a communal area of each worksite covered by the Agreement.
- D. Subcontractors and Sublessees: Concessionaire hereby agrees to require Subcontractors and Sublessees, as defined in the Regulations, to comply with the requirements of the Living Wage Regulations, and hereby agrees to be responsible for the compliance of such Subcontractors and Sublessees. Concessionaire shall include these Living Wage Compliance Provisions in any contract with such Subcontractors and Sublessees.
- E. Term of Compliance: Concessionaire hereby agrees to comply with these Living Wage Compliance Provisions and with the Regulations for the entire term of the Agreement, and to submit the reports required by the Regulations for each calendar year or portion thereof during which such Agreement is in effect.
- F. Reporting: Concessionaire shall provide the annual reports and attachments required by the Ordinance and Regulations.
- G. Penalties: Concessionaire acknowledges and agrees that failure to comply with any provision of the Ordinance and/or Regulations and/or providing false information may result in the imposition of penalties specified in the Ordinance and/or Regulations. These penalties, as provided in the Ordinance and Regulations, may include, without limitation, suspension or termination of the Agreement, disbarment, and/or the payment of liquidated damages, as provided in the Ordinance and Regulations.
- H. Concessionaire hereby acknowledges receipt of a copy of the Ordinance and Regulations.

(The balance of this page is intentionally blank.)

IN WITNESS WHEREOF, the parties hereto for themselves, their successors and assigns, have executed this Agreement the day and year last written below.

POWER STATION LLC, by

Title: _____
Date: _____

ATTESTED TO BY:

Title: _____
Date: _____

THE CITY OF ST. LOUIS, MISSOURI, OPERATING LAMBERT-ST. LOUIS INTERNATIONAL AIRPORT® pursuant to City Ordinance # _____ approved the _____ day of _____, 200_ :

The foregoing Agreement was approved by the Airport Commission at its meeting on the _____ day of _____, 200_

BY:

Commission Chairman and Director of Airports Date

The foregoing Agreement was approved by the Board of Estimate and Apportionment at its meeting on the _____ day of _____, 200_

BY:

Secretary, Board of Estimate and Apportionment Date

APPROVED AS TO FORM ONLY BY:

COUNTERSIGNED BY:

City Counselor City of St. Louis Date

Comptroller City of St. Louis Date

ATTESTED TO BY:

Register, City of St. Louis Date

**EXHIBIT "A"
PREMISES**

EXHIBIT A

EXHIBIT A will be incorporated upon completion of site the survey and installation plan.

**EXHIBIT B
LIVING WAGE ADJUSTMENT BULLETIN**

ST. LOUIS LIVING WAGE ORDINANCE

LIVING WAGE ADJUSTMENT BULLETIN

**NOTICE OF ST. LOUIS LIVING WAGE RATES
EFFECTIVE APRIL 1, 2008**

In accordance with Ordinance No. 65597, the St. Louis Living Wage Ordinance ("Ordinance") and the Regulations associated therewith, the City Compliance Official for the City of St. Louis has determined that the following living wage rates are now in effect for employees of covered contracts:

- 1) Where health benefits as defined in the Ordinance are provided to the employee, the living wage rate is **\$11.00** per hour (130% of the federal poverty level income guideline for a family of three); and
- 2) Where health benefits as defined in the Ordinance are **not** provided to the employee, the living wage rate is **\$14.16** per hour (130% of the federal poverty level income guideline for a family of three, plus fringe benefit rates as defined in the Ordinance).
- 3) Wages required under Chapter 6.20 of the Revised Code of the City of St. Louis: **\$3.16** per hour.

These rates are based upon federal poverty level income guidelines as defined in the Ordinance and these rates are effective as of **April 1, 2008**. These rates will be further adjusted periodically when the federal poverty level income guideline is adjusted by the U.S. Department of Health and Human Services or pursuant to Chapter 6.20 of the Revised Code of the City of St. Louis.

The Ordinance applies to employers who are covered by the Ordinance as defined in the Ordinance, where the contract or grant is entered into or renewed after the effective date of the Ordinance, which is November 3, 2002. A copy of the Ordinance may be viewed online at <http://www.stlouiscity.com/livingwage> or obtained from:

City Compliance Official
 DBE Program Office – 4th Floor
 11495 Navaid Road
 Bridgeton, MO 63044
 (314) 551-5000

Dated: February 14, 2008

**EXHIBIT C
 LIST OF PRODUCTS AND SERVICES**

PRODUCTS AND SERVICES

Payphone Operations	\$0.50 local calls
Domestic Long Distance	\$1.00 for the first four minutes \$0.25 for each additional minute Operator assisted and collect calls Are charged by service provider
International Long Distance	\$1.00, number of minutes vary by country
Prepaid Phone Cards	\$10.00 card \$0.25 per minute \$20.00 card \$0.25 per minute \$30.00 card \$0.25 per minute \$50.00 card \$0.25 per minute
Video Games	\$1.00 per session (4credits to play)
Internet Services	\$0.25 per minute
Skype Internet Phone	\$0.25 per minute
Laptop Rental	\$7.95 per hour
Battery Charging Bay	\$4.95 per hour

**EXHIBIT D
 PAYPHONE OPERATING SPECIFICATIONS**

PAYPHONE OPERATING SPECIFICATIONS

1. The furnishing, installation, operation, maintenance, and provisioning of the pay telephone units, and all associated software and hardware provided shall meet all applicable EIAITIA and CCIA standards and recommendations, and use ADCO or Philips and Brooks telephone housings, or equivalent. All equipment shall be UL and FCC approved. Telephone unit models must have the following standard features, as minimum requirements:
 - a. Receive cash and credit cards
 - b. Handsets with armored cords
 - c. Line powered
 - d. Die cast bodies
 - e. Management system, - PC based
 - f. Terminal based call rating
 - g. Downloadable memory
 - h. VFD display that should be readable in a high glare environment
 - i. Volume adjustable
 - j. Data port
 - k. POTS/coin line
 - l. Multi-lingual instruction
 - m. 8 BIT processor size
 - n. Magnet strip card acceptance
 - o. Memory chip card acceptance
 - p. Store and forward capability
 - q. Modem speed of at least 2400 baud
2. Reporting Capability: The hardware and software furnished and installed for the pay telephone units shall be capable of providing data inquiries, and be able to generate the following respective reports; reports shall be reviewable, downloadable, and printable locally and remotely; summary reporting shall be concise, and only incorporate high-level

data/information:

- a. Revenue Report Detail Provisions Per bank, during a certain time period. Per telephone.
Per time period — Monthly, Daily, Yearly, Hourly, multiple continuous days in any increment from one (1) to thirty (30) days, and multiple continuous hours in any increment from one (1) to twenty-four (24) hours.
Revenue Totals.
Revenue during a time period for any number of stations, from one (1) to the total number of telephones and banks deployed.
- b. Usage Report Detail
Per telephone during a certain time period.
Per telephone for 24 hour total period.
- c. Monthly Maintenance Reports Reports shall be generated by the Concessionaire, and transmitted to the Executive Director on a monthly basis. The content and format of the report(s), and their time and method of presentation will be conveyed to the Concessionaire by the Executive Director after award. The Authority reserves the right to modify the form and method of reporting requirements at any time during the term of the Concession.
- d. Additional Reports The Contractor shall provide additional reports to the Executive Director, in a format and presentation method to be communicated to the Concessionaire by the Executive Director that report usage and/or revenue data of the pre-paid calling card, facsimile, and dollar change making machines.

Approved: November 24, 2008

ORDINANCE #68180
Board Bill No. 278

AN ORDINANCE RECOMMENDED BY THE BOARD OF ESTIMATE AND APPORTIONMENT AMENDING ORDINANCE NO. 67060 PERTAINING TO THE ISSUANCE AND DELIVERY OF TAX INCREMENT REVENUE NOTES FOR THE GRAND CENTER REDEVELOPMENT PROJECT AND AUTHORIZING A FIRST SUPPLEMENTAL TRUST INDENTURE AND NOTE PURCHASE AGREEMENT RELATING THERETO; PRESCRIBING OTHER MATTERS RELATING THERETO; AND CONTAINING A SEVERABILITY CLAUSE AND AN EMERGENCY CLAUSE.

WHEREAS, the City is authorized and empowered under the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the “*Act*” or the “*TIF Act*”), to issue bonds, notes or other obligations for the purpose of providing funds to finance the costs of certain redevelopment projects and to pay certain costs related to the issuance of such bonds, notes or other obligations; and

WHEREAS, the Mayor (the “*Mayor*”) approved Ordinance No. 65703 on December 2, 2002, which (i) designated a Redevelopment Area known as the Grand Center Redevelopment Area, as further described in Exhibit A attached thereto (the “*Redevelopment Area*”), (ii) approved a plan for redevelopment titled “Tax Increment Blighting Analysis and Redevelopment Plan” dated August 2, 2002, as amended (as may be further amended, the “*Redevelopment Plan*”), (iii) approved a series of Redevelopment Projects (collectively, the “*Redevelopment Projects*”) with respect thereto, (iv) adopted tax increment financing for the Redevelopment Area, and (v) established the Special Allocation Fund (as defined in the Redevelopment Plan); and

WHEREAS, Grand Center, Inc., a Missouri nonprofit corporation (the “*Developer*”), in response to the solicitation of proposals for redevelopment of the Redevelopment Area, submitted its proposal dated June 28, 2002 (the “*Redevelopment Proposal*”); and

WHEREAS, pursuant to Ordinance No. 65857, approved by the Mayor on February 25, 2003, the Board of Aldermen (the “*Board of Aldermen*”) has (i) affirmed the approval and adoption of the Redevelopment Plan, Redevelopment Projects and the designation of the Redevelopment Area, and (ii) authorized the City to enter into the Redevelopment Agreement dated April 24, 2003 (as amended from time to time, the “*Redevelopment Agreement*”) between the City and the Developer, whereby the Developer agreed to carry out the Redevelopment Plan with respect to the Redevelopment Area; and

WHEREAS, on March 22, 2006 the Mayor approved Ordinance No. 67060, which authorized the issuance of certain tax increment revenue notes for the purposes of financing implementation of the Redevelopment Plan pursuant to a Trust Indenture dated as of November 1, 2006 (the “*Original Indenture*”), between the City and UMB Bank, N.A., as trustee (the “*Trustee*”); and

WHEREAS, the City now desires to amend the Original Indenture by entering into a First Supplemental Trust Indenture between the City and the Trustee in substantially the form of Exhibit A hereto (the “*First Supplemental Indenture*”), which

authorizes the issuance of certain Series 2008A Notes, Subordinate A Notes and Series 2008B Notes (as defined therein); and

WHEREAS, the City desires to provide for the terms of the sale of the Series 2008A Notes by entering into the Note Purchase Agreement among the City, the Developer and U.S. Bank National Association, as purchaser, in substantially the form of **Exhibit B** hereto (the "**Note Purchase Agreement**"); and

WHEREAS, in accordance with the Redevelopment Agreement the Developer has entered into a Parcel Development Agreement dated September 14, 2006 (as amended, the "**Parcel Development Agreement**") with Saint Louis University, a Missouri benevolent corporation (the "**Sub-Developer**"), which provides for the Sub-Developer to carry out the Authorized Project (as defined in the Parcel Development Agreement) and, upon completion of such Authorized Project, for the City to issue TIF Obligations (as defined in the Redevelopment Agreement) to provide reimbursement of the Sub-Developer for Reimbursable Redevelopment Project Costs in an amount not to exceed the Authorized Project Allocation (as defined in the Parcel Development Agreement); and

WHEREAS, to the extent that the Parcel Development Agreement is amended to increase the amount of payment or reimbursement from Sub-Developer to Developer (the "**Developer Fee**") and the City's Board of Estimate and Apportionment consents to such amendment to the Parcel Development Agreement in accordance with the Redevelopment Agreement, the amount of such increase in the Developer Fee up to a maximum amount of TWO HUNDRED AND EIGHTY THOUSAND DOLLARS (\$280,000) ("**Development Fee Amount**") shall be held in escrow by UMB Bank, N.A., as escrow agent ("**Escrow Agent**"), pursuant to an escrow agreement entered into among the City, the Developer and the Escrow Agent (the "**Escrow Agreement**"), which Escrow Agreement shall provide that the Development Fee Amount will be released as follows: (i) to the Developer if, on or before May 2, 2009, any of the following occur: (a) the closing of the purchase of the City's property located at 634 North Grand Avenue, or (b) the Developer provides evidence satisfactory to the City of a binding agreement for purchase of the City's property located at 634 North Grand Avenue, or (c) the Board of Estimate and Apportionment consents to release of all or a portion of the Development Fee Amount; or (ii) to the City if none of the foregoing events occur on or before May 2, 2009; and

WHEREAS, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants to enact this Ordinance to amend Ordinance No. 67060, in order to authorize the issuance and delivery of the Series 2008A Notes, Subordinate A Notes and Series 2008B Notes, to be issued and secured pursuant to the terms of the Original Indenture and the First Supplemental Indenture.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. LOUIS, MISSOURI AS FOLLOWS:

SECTION ONE. Authorization and Execution of Documents. The Board of Aldermen hereby approves, and the Mayor and Comptroller of the City are hereby authorized and directed to execute and deliver, on behalf of the City, the First Supplemental Indenture, in substantially the form attached hereto as **Exhibit A**, and the City Register is hereby authorized and directed to attest to the First Supplemental Indenture and to affix the seal of the City thereto. The First Supplemental Indenture shall be in substantially the form attached, with such changes therein as shall be approved by said Mayor and Comptroller executing the same and as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized.

SECTION TWO. Sale and Issuance of the Notes. The Board of Aldermen hereby finds and determines that it is necessary and advisable and in the best interest of the City and of its inhabitants to issue its Series 2008A Notes, Subordinate A Notes and Series 2008B Notes, as permitted by the TIF Act and in accordance with the terms of the Original Indenture and First Supplemental Indenture. In connection with the sale of the Series 2008A Notes, the Board of Aldermen hereby approves, and the Mayor and Comptroller of the City are hereby authorized and directed to execute and deliver, on behalf of the City, the Note Purchase Agreement, in substantially the form attached hereto as **Exhibit B**. The Note Purchase Agreement shall be in substantially the form attached, with such changes therein as shall be approved by said Mayor and Comptroller executing the same and as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized.

SECTION THREE. Further Authority. The Mayor and the Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements, and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized, including the execution and delivery of the Escrow Agreement, with no such further action of the Board of Aldermen necessary to authorize such changes by the Mayor and the Comptroller or their designated representatives.

SECTION FOUR. Severability. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

SECTION FIVE. Governing Law. This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

SECTION SIX. Emergency Clause. This being an ordinance affecting the appropriation of money, it is hereby declared

to be an emergency measure within the meaning of Sections 19 and 20 of Article 14 of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the Mayor.

**EXHIBIT A
FORM OF FIRST SUPPLEMENTAL TRUST INDENTURE
(Attached hereto.)**

**FIRST SUPPLEMENTAL TRUST INDENTURE
Dated as of November 1, 2008
between
CITY OF ST. LOUIS, MISSOURI
and
UMB BANK, N.A.,
As Trustee**

Relating to

**Not to Exceed \$8,560,000
Total Aggregate Principal Amount
(as provided herein)**

**City of St. Louis, Missouri
Tax-Exempt Tax Increment Revenue Notes
Series 2008A (Grand Center/SLU Redevelopment Project)**

And

**City of St. Louis, Missouri
Subordinate Tax Increment Revenue Notes
Series A (Grand Center/SLU Redevelopment Project)**

And

**City of St. Louis, Missouri
Tax-Exempt Tax Increment Revenue Notes
Series 2008B (Grand Center/SLU Redevelopment Project)**

**CITY OF ST. LOUIS, MISSOURI
FIRST SUPPLEMENTAL TRUST INDENTURE**

TABLE OF CONTENTS

Page

**ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION**

Section 1.01 Definitions of Words and Terms 3
Section 1.02 Rules of Construction 4

**ARTICLE II
THE SERIES 2008A NOTES**

Section 2.01 Amendment to Section 201(a) of Original Indenture Authorization, Issuance and
Terms of Series 2008A Notes, Subordinate A Notes and Series 2008B Notes 4
Section 2.02 Description of Notes 5
Section 2.03 Redemption of Series 2008A Notes 5

**ARTICLE III
Further AMENDMENTs OF ORIGINAL INDENTURE**

Section 3.01 Amendment Regarding Date of the Original Indenture 6
Section 3.02 Deletion of Article IIA of the Original Indenture 6
Section 3.03 Amendment to Section 205 of the Original Indenture 6
Section 3.04 Amendment to Section 302 of the Original Indenture 6
Section 3.05 Amendment to Section 402 of the Original Indenture 7
Section 3.06 Amendment to Article IV of the Original Indenture 7

Section 3.07	Amendment to Section 403(b) of the Original Indenture	8
Section 3.08	Amendment to Section 405 of the Original Indenture	9
Section 3.09	Amendment to Article IV of the Original Indenture	10
Section 3.10	Amendment to Section 708(a)(i) of the Original Indenture	10

**ARTICLE IV
MISCELLANEOUS PROVISIONS**

Section 4.01	Authority for this First Supplemental Indenture	11
Section 4.02	Execution in Counterparts	11
Section 4.03	Ratification of Original Indenture	11
Section 4.04	Severability	12
Section 4.05	Governing Law	12

FIRST SUPPLEMENTAL TRUST INDENTURE

THIS FIRST SUPPLEMENTAL TRUST INDENTURE (the “*First Supplemental Indenture*”), made and entered into as of November 1, 2008, by and between **CITY OF ST. LOUIS, MISSOURI**, a charter city and political subdivision of the State of Missouri (the “*City*”), and **UMB BANK, N.A.**, St. Louis, Missouri, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set out under the laws of the United States of America and having a corporate trust office located in St. Louis, Missouri, as trustee (the “*Trustee*”), amends and supplements that certain Trust Indenture dated as of November 1, 2006 by and between the City and the Trustee (the “*Original Indenture*”).

RECITALS:

WHEREAS, the City is a charter city and political subdivision duly organized and existing under the laws of the State of Missouri (the “*State*”), with full and lawful power and authority to enter into this First Supplemental Indenture; and

WHEREAS, the City is authorized and empowered under the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the “*Act*” or the “*TIF Act*”), to issue notes for the purpose of providing funds to finance the costs of certain redevelopment projects and to pay certain costs related to the issuance of such notes; and

WHEREAS, the Board of Aldermen of the City (the “*Board of Aldermen*”) and Grand Center, Inc., a Missouri nonprofit corporation (the “*Developer*”), have entered into that certain Redevelopment Agreement dated April 24, 2003, as amended (as amended from time to time, the “*Redevelopment Agreement*”), pursuant to which the Developer has agreed to carry out the Redevelopment Plan (as defined in the Redevelopment Agreement) through implementation of the Redevelopment Projects (as defined in the Redevelopment Agreement); and

WHEREAS, pursuant to the Trust Indenture dated as of November 1, 2006 (the “*Original Indenture*”), between the City and UMB Bank, N.A., as trustee (the “*Trustee*”), the City has previously authorized its (i) up to \$8,000,000 aggregate principal amount of Tax-Exempt Tax Increment Revenue Notes, Series A (Grand Center/SLU Redevelopment Project) (the “*Authorized Notes*”), (ii) up to \$17,140,000 aggregate principal amount (as may be increased pursuant to Section 208 of the Original Indenture) of Tax Increment Revenue Notes, Series B (Grand Center Redevelopment Project) (the “*Series B Notes*”), (iii) up to \$11,850,000 aggregate principal amount of Subordinate Tax Increment Revenue Notes, Series C (Grand Center Redevelopment Project) (the “*Subordinate Series C Notes*”) and (iv) up to \$8,880,000 aggregate principal amount of Subordinate Tax Increment Revenue Notes, Series D (Grand Center Redevelopment Project) (the “*Subordinate Series D Notes*”) which, together with the Authorized Notes, the Series B Notes and the Subordinate Series C Notes, are referred to collectively as the “*Notes*”) as evidence of the City’s obligation to pay certain for Redevelopment Project Costs (as defined in the Original Indenture); and

WHEREAS, pursuant to the Original Indenture, the City has issued to the Developer its (i) \$750,000 Tax-Exempt Tax Increment Revenue Notes, Series B (Grand Center Redevelopment Area), (ii) \$3,000,000 Tax-Exempt Tax Increment Revenue Notes, Series B (Grand Center Redevelopment Area), and (iii) \$960,000 Tax-Exempt Tax Increment Revenue Notes, Series B (Humboldt Phase I Project) (collectively, the “*Series 2006B Notes*”); and

WHEREAS, the City has subsequently approved and agreed to reimburse the Developer for certain Reimbursable Redevelopment Project Costs in the amount of up to \$8,560,000 (the “*SLU Reimbursable Costs*”), based on Certificate of Reimbursable Redevelopment Project Costs dated June 30, 2008, as amended and supplemented submitted by the Developer in connection with the SLU Arena pursuant to the provisions of the Redevelopment Agreement; and

WHEREAS, the City has incurred certain “Issuance Costs” within the meaning of the Redevelopment Agreement and Redevelopment Plan and related legal fees in connection with the issuance of Notes and the implementation of the Redevelopment Plan and the Redevelopment Agreement in the amount of \$25,000 (the “*Additional TIF-Related Costs*”), and the City desires to make provision for the payment of such Additional TIF-Related Costs from moneys held by the Trustee in the SLU Account of the Revenue Fund under the Indenture; and

WHEREAS, to pay for the SLU Reimbursable Costs the City proposes to issue obligations in one or more series under the Original Indenture, as supplemented and amended by this First Supplemental Indenture, in a total principal amount not to exceed

\$8,560,000; and

WHEREAS, the City proposes to issue its Tax-Exempt Tax Increment Revenue Notes, Series 2008A (Grand Center/SLU Redevelopment Project) (the "**Series 2008A Notes**") in the principal amount of not to exceed \$8,560,000 in order to provide funds to pay for a portion of such SLU Reimbursable Costs; and

WHEREAS, in order to pay for SLU Reimbursable Costs the City proposes to issue its Tax-Exempt Tax Increment Revenue Notes (Grand Center/SLU Redevelopment Project) Series 2008B (the "**Series 2008B Notes**"), which shall be issued and secured on a parity with the Series 2006B Notes and any future Series B Notes issued under the Indenture and which may be issued in a principal amount which shall not exceed \$8,560,000 less the amount of Series 2008A Notes and any Subordinate A Notes issued and outstanding; and

WHEREAS, the City proposes to authorize the issuance of certain subordinate Series A Notes (the "**Subordinate A Notes**"), which are expressly junior and subordinate to the Series 2008A Notes as provided in **Section 3.07** hereof (which amends Section 403(b) of the Original Indenture), in order to refund a portion of the Series 2008B Notes and may be issued in a principal amount which shall not exceed \$8,560,000 less the amount of Series 2008A Notes and related Series B Notes issued and outstanding; and

WHEREAS, the City desires to enter into this First Supplemental Indenture to secure the payment and performance of its duties and obligations hereunder, to authorize the Series 2008A Notes, the Subordinate A Notes and the Series 2008B Notes, and to authorize the payment of the Additional TIF-Related Costs; and

WHEREAS, pursuant to Ordinance No. _____ [Board Bill No. _____] adopted by the Board of Aldermen of the City on November __, 2008, the City has authorized, among other things, this First Supplemental Indenture and the issuance, sale and delivery of the Series 2008A Notes, the Subordinate A Notes and the Series 2008B Notes, and the execution of certain documents related thereto in accordance with Indenture; and

WHEREAS, this Supplemental Trust Indenture is being entered into with the consent of the Developer, one hundred percent (100%) of the Owners of the outstanding Series 2006B Notes and U.S. Bank National Association (the "**Lender**"), as pledgee of the outstanding Series 2006B Notes pursuant to that certain Assignment, Pledge and Security Agreement, dated as of September 25, 2006 (the "**Pledge Agreement**"), executed by Developer for the benefit of Lender; and

WHEREAS, pursuant to Article X of the Original Indenture (as amended by this First Supplemental Indenture and as may be further amended from time to time, the "**Indenture**") and the Redevelopment Agreement, the City is authorized to enter into this First Supplemental Indenture; and

WHEREAS, all things necessary to make the Series 2008A Notes, the Subordinate A Notes and Series 2008B Notes, when authenticated by the Trustee and issued as in the Indenture provided, the valid, legal and binding obligations of the City, and to constitute the Indenture a valid, legal and binding pledge and assignment of the property, rights, interest and revenues herein made for the security of the payment of the principal of, and redemption premium, if any, and interest on the Series 2008A Notes, the Subordinate A Notes and Series 2008B Notes, have been done and performed, and the execution and delivery of this First Supplemental Indenture and the execution and issuance of the Series 2008A Notes, the Subordinate A Notes and Series 2008B Notes, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS FIRST SUPPLEMENTAL TRUST INDENTURE WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that the Series 2008A Notes, the Subordinate A Notes and Series 2008B Notes issued and secured hereunder to be issued, authenticated and delivered and that the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as expressed in the Original Indenture and as provided herein, and the City does hereby agree and covenant with the Trustee and with the Owners of the Notes as follows:

ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01 Definitions of Words and Terms. Unless otherwise defined herein, capitalized words and terms used herein shall have the meanings ascribed to such terms in the Original Indenture. Section 101 of the Original Indenture is hereby amended to include the following definitions:

"Indenture" means the Trust Indenture dated as of November 1, 2006, by and between the City and the Trustee, as amended and supplemented by this First Supplemental Trust Indenture dated as of November 1, 2008, and as the same may be further amended and supplemented from time to time in accordance with the provisions of Article X thereof.

"Original Indenture" means the Trust Indenture dated as of November 1, 2006, by and between the City and the Trustee.

"Series 2006B Notes" means, collectively, the City's (i) \$750,000 principal amount Tax-Exempt Tax Increment Revenue Notes (Grand Center/SLU Redevelopment Area), Series B, (ii) \$3,000,000 Tax-Exempt Tax Increment Revenue Notes (Grand Center/SLU Redevelopment Area), Series B, and (iii) \$960,000 principal amount Tax-Exempt Tax Increment Revenue Notes (Humboldt Phase I Project), Series B.

“Series 2008A Notes” means the City’s not to exceed \$8,560,000 principal amount of Tax-Exempt Tax Increment Revenue Notes, Series 2008A (Grand Center/SLU Redevelopment Project), as authorized by the Note Ordinance, the Series 2008 Ordinance and the Indenture.

“Series 2008B Notes” means the City’s Tax-Exempt Tax Increment Revenue Notes, Series 2008B (Grand Center Redevelopment Project), as authorized by the Note Ordinance, the Series 2008 Ordinance and the Indenture in a principal amount not to exceed \$8,560,000 less the amount of Series 2008A Notes and related Series B Notes issued and outstanding.

“Series 2008 Ordinance” means Ordinance No. _____ [Board Bill No. _____] adopted by the Board of Aldermen of the City on November ____, 2008, authorizing, among other things, the First Supplemental Indenture and the issuance, sale and delivery of the Series 2008A Notes, Subordinate A Notes and the Series 2008B Notes, and the execution of certain documents related thereto in accordance with Indenture.

“Series A Notes” means collectively, the Series 2008A Notes and the Subordinate A Notes.

“Series A Reserve Fund” means the fund by that name created in Section 402A of the Indenture, which secures the Series 2008A Notes.

“Series A Reserve Requirement” means, at any point in time, an amount equal to the interest expected to become due on Outstanding Series 2008A Notes during the successive twelve (12) months. The Series A Reserve Requirement shall be determined by the Trustee fifteen (15) days prior to each Interest Payment Date (or if such date is not a Business Day, the immediately preceding Business Day) and the Trustee shall immediately provide written notice of such determination to the Owners of any Series A Notes fifteen (15) days prior to each Payment Date; notwithstanding the foregoing, the amount in the Series A Reserve Fund may be less than the Series A Reserve Requirement in each such year, if, after application of all funds in the order provided in Section 401(b) hereof, insufficient moneys exist to replenish the Series A Reserve Fund up to the Reserve Requirement.

“SLU Reimbursable Costs” means the costs set forth in Certificate of Reimbursable Project Costs dated June 30, 2008, as amended and supplemented, submitted by the Developer and approved by the City pursuant to the provisions of the Redevelopment Agreement.

“Subordinate A Notes” means the City’s Subordinate Tax Increment Revenue Notes, Series A (Grand Center/SLU Redevelopment Project), in the principal amount of not to exceed \$8,560,000 less the amount of Series 2008A Notes and related Series B Notes issued and outstanding.

Section 1.02 Rules of Construction. For all purposes of this First Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders and vice versa.
- (b) Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, partnerships, associations, corporations, limited liability companies, and public bodies, as well as natural persons.
- (c) The headings and captions herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this First Supplemental Indenture.
- (d) Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by generally accepted principles of accounting.
- (e) Whenever an item or items are listed after the word “including”, such listing is not intended to be a listing that excludes items not listed.

ARTICLE II THE SERIES 2008A NOTES

Section 2.01 Amendment to Section 201(a) of Original Indenture Authorization, Issuance and Terms of Series 2008A Notes, Subordinate A Notes and Series 2008B Notes.

(a) The second sentence of Section 201(a) of the Original Indenture reading “The total aggregate principal amount of Series A Notes that may be issued hereunder is expressly limited to \$8,000,000” is hereby deleted and replaced by the following new sentences:

The total aggregate principal amount of the Series 2008A Notes, Subordinate A Notes and Series 2008B Notes authorized to be issued is \$8,560,000; provided that if Subordinate A Notes are issued to refund Series 2008B Notes, the total maximum principal amount of the Series 2008A Notes, Subordinate A Notes and Series 2008B Notes outstanding at any one time shall not exceed \$8,560,000. The City is authorized pursuant to the Indenture, the Note Ordinance and the Series 2008 Ordinance to issue (i) the Series 2008A Notes, which are entitled to the benefit, protection and security of the Indenture in the aggregate principal amount of not to exceed _____ Thousand _____ Hundred and 00/100 Dollars (\$ _____), to be designated

“Tax-Exempt Tax Increment Revenue Notes, Series 2008A (Grand Center/SLU Redevelopment Project),” (ii) with the prior written consent of one hundred percent (100%) of the Owners of the Series 2008A Notes (in the sole and absolute discretion of such Owners), the Subordinate A Notes, which are entitled to the benefit, protection and security of the Indenture in the aggregate principal amount of not to exceed _____ Thousand _____ Hundred and 00/100 Dollars (\$ _____) plus Issuance Costs as provided for in Section 205(h) hereof, to be designated “Subordinate Tax Increment Revenue Notes, Series _____ A (Grand Center/SLU Redevelopment Project),” as more fully described in the supplemental indenture under which they are issued, and (iii) the Series 2008B Notes, which are entitled to the benefit, protection and security of the Indenture in the aggregate principal amount of not to exceed _____ Thousand _____ Hundred and 00/100 Dollars (\$ _____), to be designated “Tax-Exempt Tax Increment Revenue Notes, Series 2008B (Grand Center Redevelopment Area).”

(b) The Subordinate A Notes shall be junior and subordinate to the Series 2008A Notes as provided in **Section 3.07** of this First Supplemental Indenture (which amends Section 403(b) of the Original Indenture).

(c) The Series 2008A Notes, the Subordinate A Notes and Series 2008B Notes shall be substantially in the form set forth in Exhibit B to the Indenture; provided that the Subordinate A Notes shall contain appropriate text to describe their subordinate status to the Series 2008A Notes (including, but not limited to the language of Section 403(b) of the Indenture) and further provided that each series of notes shall have such appropriate variations, omissions and insertions as are permitted or required by the Indenture, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

Section 2.02 Description of Notes. The Series 2008A Notes shall bear interest at the rate of _____ % per annum, which interest, together with principal, shall be payable semiannually on each Interest Payment Date. The Series 2008A Notes shall be dated the date of their issuance and delivery, and shall accrue interest from such date. The Subordinate A Notes shall bear interest at such times and rates as provided for in the supplemental indenture under which they are issued. The Series 2008B Notes shall bear interest at the rate of _____ % per annum, which interest, together with principal, shall be payable semiannually on each Interest Payment Date. The Series 2008B Notes shall be dated the date of their issuance and delivery, and shall accrue interest from such date.

Section 2.03 Redemption of Series 2008A Notes. The Series 2008A Notes and Series 2008B Notes shall become due on December 1, 2025, subject to redemption and payment prior to the stated maturity as provided in Article III of the Indenture. The Subordinate A Notes shall become due no later than December 1, 2025, and shall be subject to redemption and payment prior to the stated maturity as provided in the supplemental indenture under which they are issued.

ARTICLE III Further AMENDMENTS OF ORIGINAL INDENTURE

Section 3.01 Amendment Regarding Date of the Original Indenture. The Original Indenture is dated as of November 1, 2006. The incorrect reference to October 1, 2006 in the first paragraph thereof is hereby amended to read November 1, 2006.

Section 3.02 Deletion of Article IIA of the Original Indenture. Article IIA of the Original Indenture is hereby deleted in its entirety.

Section 3.03 Amendment to Section 205 of the Original Indenture. Section 205 of the Original Indenture is hereby amended to add the following new Section 205(h):

- (h) Following the closing for the Series 2008A Notes and prior to or simultaneously with the authentication and delivery of any series of Subordinate A Notes by the Trustee, the Developer shall provide evidence to the Trustee that it has paid to the City, in addition to the amount due under Section 2(H)(iv) of the Redevelopment Agreement, issuance costs representing Bond Counsel fees and expenses equal to \$25,000.

Section 3.04 Amendment to Section 302 of the Original Indenture.

- (a) Section 302(a) of the Original Indenture is hereby deleted and is replaced by the following new Section 302(a):

(a) **Mandatory Redemption.** The 2008A Notes are subject to mandatory sinking fund redemption by the City, on each May 1 occurring after the date of issuance and delivery of the Series 2008A Notes, in Authorized Denominations in the principal amount which amortizes the aggregate principal amount of Series 2008A Notes Outstanding, using substantially level debt service, over the period of time remaining until December 1, 2025. At the time of closing for the issuance and delivery of the Series 2008B Notes, the Lender shall prepare and deliver to the City, the Trustee and the Owners a recalculated schedule of amortization using a substantially level debt service in Authorized Denominations, to be attached as Amended Schedule A to the Series 2008A Notes, which schedule, absent manifest error, shall be binding upon the City, the Trustee and the Owners.

The Subordinate A Notes shall be subject to mandatory sinking fund redemption if and to the extent provided for in the supplemental indenture authorizing the issuance of such Notes.

Each Series B Note is subject to mandatory sinking fund redemption by the City, on each May 1 occurring in the Remaining Period following the acceptance by the City of a Certificate of Substantial Completion for the Redevelopment Projects financed with such Series B Note, in Authorized Denominations in the principal amount which amortizes the aggregate principal amount of Series B Notes Outstanding, using substantially level debt service, during the Remaining Period. Promptly following the City's acceptance of the applicable Certificate of Substantial Completion, the City's financial advisor shall prepare and deliver to the City, the Trustee and the Owners a schedule of amortization using substantially level debt service in Authorized Denominations, to be attached as Amended Schedule A to the relevant Series B Note, which schedule, absent manifest error, shall be binding upon the City, the Trustee and the Owners.

- (b) Section 302(b)(1) of the Original Indenture is hereby deleted and is replaced by the following Section 302(b)(1):

(b) ***Special Mandatory Redemption.***

(1) The Series 2008A Notes are subject to special mandatory redemption in whole or in part, by the City on each May 1 occurring after the acceptance by the City of the final Certificate of Substantial Completion for the SLU Arena, at a redemption price equal to one hundred percent (100%) of the amount of principal being redeemed, in an amount equal to the amount which is on deposit in the SLU Account of the Debt Service Fund forty (40) days prior to such May 1 or, if such date is not a Business Day, the immediately preceding Business Day and which will not be required for the payment of interest on such date.

Subordinate A Notes shall be subject to special mandatory redemption if and to the extent provided for in the supplemental indenture authorizing the issuance of such Notes.

- (c) Section 302(c) of the Original Indenture is hereby deleted and is replaced by the following Section 302(c):

(c) ***Optional Redemption.*** Notes are subject to optional redemption by the City, at the direction of the Developer, and in the case of Series 2008A Notes with the prior written consent of one hundred percent (100%) of the Owners of the Outstanding Series 2008A Notes (which consent may be withheld in the sole and absolute discretion of such Owners), in whole or in part at any time at a redemption price of one hundred percent (100%) of the principal amount of the Notes to be redeemed, plus accrued interest thereon to the date fixed for redemption; provided that no optional redemption shall occur in any year with respect to a series of Notes until the special mandatory redemption, if any, for such Notes pursuant to **Section 302(b)** hereof has occurred on May 1 of such year.

Section 3.05 Amendment to Section 402 of the Original Indenture.

- (a) Section 402(c) of the Original Indenture is hereby deleted and is replaced by the following Section 402(c):

(c) Grand Center TIF Redevelopment Project Fund (the "***Project Fund***"), which shall include a SLU Reimbursement Account and a Costs of Issuance Account.

- (b) Section 402(d) of the Original Indenture is hereby deleted and is replaced by the following Section 402(d):

(d) Grand Center TIF Redevelopment Reserve Fund, which shall include a Series A Reserve Fund (the "***Series A Reserve Fund***") and a Series B Reserve Fund (the "***Reserve Fund***").

Section 3.06 Amendment to Article IV of the Original Indenture. Article IV of the Original Indenture is amended by adding the following new Section 402A:

Section 402A. Application of Certain Note Proceeds and Other Moneys.

(a) The proceeds received from the sale of the Series 2008A Notes in the amount of \$ _____ shall be deposited or paid simultaneously with the delivery of the Series 2008A Notes into the SLU Reimbursement Account of the Project Fund; and

(b) The proceeds received from the sale of the Series 2008B Notes in the amount of \$ _____ shall be deposited or paid simultaneously with the delivery of the Series 2008B Notes into the SLU Reimbursement Account of the Project Fund.

(c) Simultaneously with the delivery of the Series 2008A Notes the Trustee shall transfer from the SLU Account EATs Sub-Account and SLU Account PILOTS Sub-Account of the Revenue Fund (drawing first from the PILOTS Sub-Account and second from the EATs Account): (i) \$ _____ to the SLU Reimbursement Account of the Project Fund, (ii) \$ _____ to the Series A Reserve Fund, which equals the Series A Reserve Requirement as of the date of issuance and delivery of the Series 2008A Notes, and (iii) \$ _____ to the Costs of Issuance Account of the Project Fund.

(d) Simultaneously with the delivery of the Series 2008A Notes and Series 2008B Notes and as a condition to closing, the Developer shall provide immediately available funds to the City in the amount of \$10,700.00 pursuant to Section 2(H)(iv) of the Redevelopment Agreement.

Section 3.07 Amendment to Section 403(b) of the Original Indenture. Section 403(b) of the Original Indenture is hereby deleted in its entirety, and is replaced by the following new text:

(b) **Transfers from SLU Account.** On each Interest Payment Date all amounts which, according to the Trustee's records, were on deposit in the SLU Account of the Revenue Fund on the fortieth (40th) day prior to such Interest Payment Date, shall be disbursed by the Trustee on such Interest Payment Date, first from the PILOTs Sub-Account, second from the EATs Sub-Account, for the purposes and in the amounts as follows:

First, to the United States of America, an amount sufficient to pay any arbitrage rebate owned under Section 148 of the Code, as directed in writing by the City;

Second, to the Comptroller of the City and the SLDC (one half to be paid to the Comptroller and one half to be paid to SLDC), an amount equal to the pro rata portion of the City Fee due and payable as of such Interest Payment Date, plus any accumulated deficiency from previous years, plus an amount sufficient for payment of any fees and expenses incurred by the City in engaging an arbitrage rebate analyst in accordance with any Series A Tax Compliance Agreement;

Third, to the Trustee or any Paying Agent, an amount equal to the pro rata portion of any fees and expenses which are due and owing to the Trustee or any Paying Agent, upon delivery to the City of an invoice for such amounts (aggregate payments to the Trustee from all accounts in the Revenue Fund may not exceed \$5,000.00 in any calendar year);

Fourth, if Series 2008A Notes are then Outstanding, to the SLU Account of the Debt Service Fund, an amount sufficient to pay all or any portion of the past due interest owing on the Series 2008A Notes as a result of deficiencies of moneys to pay interest due on any prior Interest Payment Date;

Fifth, if Series 2008A Notes are then Outstanding, to the SLU Account of the Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on the Series 2008A Notes on such Interest Payment Date;

Sixth, if Series 2008A Notes are then Outstanding, to the SLU Account of the Debt Service Fund, an amount sufficient to pay any past due principal owing on the Series 2008A Notes as a result of deficiencies of moneys to pay such principal due on any prior Interest Payment Date under the mandatory sinking fund redemption provisions of Section 302(a) hereof;

Seventh, if Series 2008A Notes are then Outstanding, to the SLU Account of the Debt Service Fund, an amount sufficient to pay any Series 2008A Notes which are subject to mandatory sinking fund redemption on such Interest Payment Date under **Section 302(a)** hereof;

Eighth, if Series 2008A Notes are then Outstanding, to the Series A Reserve Fund, such amount as may be required to restore any deficiency in the Series A Reserve Fund if the amount on deposit in the Series A Reserve Fund is less than the Series A Reserve Requirement;

Ninth, if no Series 2008A Notes are Outstanding, for transfer to the SLU Account of the Debt Service Fund an amount sufficient to pay all or any portion of the past due interest owing on the Subordinate A Notes as a result of deficiencies of moneys to pay interest due on any prior Interest Payment Date;

Tenth, if no Series 2008A Notes are Outstanding, for transfer to the SLU Account of the Debt Service Fund an amount sufficient to pay the accrued interest becoming due and payable on the Subordinate A Notes on such Interest Payment Date;

Eleventh, if no Series 2008A Notes are Outstanding, for transfer to the SLU Account of the Debt Service Fund an amount sufficient to pay any scheduled principal due on the Subordinate A Notes by their terms on such Interest Payment Date;

Twelfth, if Series 2008A Notes are then Outstanding, to the SLU Account of the Debt Service Fund, an amount sufficient to pay any Series 2008A Notes which are subject to special mandatory redemption pursuant to **Section 302(b)(1)** on such Interest Payment Date;

Thirteenth, if no Series 2008A Notes are Outstanding, for transfer to the SLU Account of the Debt Service Fund an amount sufficient to pay the principal of and premium, if any, due by redemption on the Subordinate A Notes by their terms on such Interest Payment Date;

Fourteenth, if no Series 2008A Notes or Subordinate A Notes are Outstanding under this Indenture, then all moneys remaining in the EATs Sub-Account of the SLU Account of the Revenue Fund following step "Third" above on each Interest Payment Date shall be transferred to the EATs Sub-Account of the Grand Center Account of the Revenue Fund and all moneys remaining in the PILOTs Sub-Account of the SLU Account of the Revenue Fund shall be transferred to the PILOTs Sub-Account of the Grand Center Account of the Revenue Fund.

Section 308 Amendment to Section 405 of the Original Indenture. Section 405 of the Original Indenture is hereby

amended by adding the following new text:

The Trustee is hereby directed to forward, without further authorization, on the date of issuance of the Series 2008A Notes and Series 2008B Notes, moneys from the SLU Reimbursement Account of the Project Fund in the amount of \$ _____ to the Developer, representing SLU Reimbursable Costs. In addition, moneys in the Costs of Issuance Account of the Project Fund shall be disbursed by the Trustee upon receipt of invoices therefor, as described in Exhibit A hereto, but without the necessity of receipt by the Trustee of a requisition therefor. Any moneys remaining in the Costs of Issuance Account on the date (and if such date is not a Business Day, the next Business Day) which is six (6) months after the date of issuance of the Series 2008A Notes and Series 2008B Notes, shall be deposited into the SLU Account of the Debt Service Fund.

Section 309 Amendment to Article IV of the Original Indenture. Article IV of the Original Indenture is further amended by adding the following new Section 408:

Section 408. Series A Reserve Fund.

The Series 2008A Notes are secured by the Series A Reserve Fund. Moneys in the Series A Reserve Fund shall be used and applied by the Trustee solely to prevent a default in the event moneys on deposit in the SLU Account of the Revenue Fund shall be insufficient to pay the interest and/or principal on the Series 2008A Notes as the same becomes due. The Trustee may disburse and expend moneys from the Series A Reserve Fund whether or not the amount therein equals the Series A Reserve Requirement. Moneys on deposit in the Series A Reserve Fund may be used to pay and retire the Series 2008A Notes last becoming due. So long as the sum on deposit in the Series A Reserve Fund shall aggregate an amount equal to the Series A Reserve Requirement, investment earnings on funds on deposit in the Series A Reserve Fund shall be deposited into the SLU Account of the Debt Service Fund. If, however, the sum on deposit in the Series A Reserve Fund shall be less than the Series A Reserve Requirement, investment earnings on funds in the Series A Reserve Fund shall remain therein and be applied to reducing such deficiency. Investment Securities in the Series A Reserve Fund shall be evaluated at the market value thereof, exclusive of accrued interest, by the Trustee quarterly on March 1, June 1, September 1 and December 1 of each year and the amount on deposit therein determined accordingly.

After payment in full of the principal of, and interest on the Series 2008A Notes (or provision has been made for the payment thereof as specified in the Indenture), and the fees, charges and expenses of the Trustee and any Paying Agent and any other amounts required to be paid under this Indenture, moneys in the Series A Reserve Fund may be used to pay the interest and/or principal next coming due on the Subordinate A Notes, Series B Notes, Series C Notes, if any, and Series D Notes, in that order.

Section 3.10 Amendment to Section 708(a)(i) of the Original Indenture. Section 708(a)(i) of the Original Indenture is hereby deleted in its entirety, and is replaced by the following new text:

(i) all amounts in the SLU Account of the Revenue Fund shall be disbursed by the Trustee on each Interest Payment Date, first from the PILOTs Sub-Account and second from the EATs Sub-Account for the purposes and in the amounts as follows:

First, to the payment to the persons entitled thereto of all installments of interest then due and payable on the Series 2008A Notes, in the order in which such installments of interest became due and payable, with interest thereon at the rate or rates specified in the respective Series 2008A Notes to the extent permitted by law, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege.

Second, to the payment to the persons entitled thereto of the unpaid principal of any of the Series 2008A Notes that have become due and payable (other than Series 2008A Notes called for redemption for the payment of which moneys or securities are held pursuant to this Indenture), in the order of their due dates, and, if the amount available is not sufficient to pay in full such principal due on any particular date, together with such interest, then to the payment ratably, according to the amounts of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

Third, to the payment to the persons entitled thereto of all installments of interest then due and payable on the Subordinate A Notes, in the order in which such installments of interest became due and payable, with interest thereon at the rate or rates specified in the respective Subordinate A Notes to the extent permitted by law, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege.

Fourth, to the payment to the persons entitled thereto of the unpaid principal of any of the Subordinate A Notes that have become due and payable (other than Subordinate A Notes called for redemption for the payment of which moneys or securities are held pursuant to this Indenture), in the order of their due dates, and, if the amount available is not sufficient to pay in full such principal due on any particular date, together with such interest, then to the payment ratably, according to the amounts of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

ARTICLE IV
MISCELLANEOUS PROVISIONS

Section 4.01 Authority for this First Supplemental Indenture. This First Supplemental Indenture is authorized pursuant to the provisions of and in accordance with Article X of the Indenture. Unless modified or amended by the terms of this First Supplemental Indenture, all other provisions of the Original Indenture remain in full force and effect.

Section 4.02 Execution in Counterparts. This First Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 4.03 Ratification of Original Indenture. Except as otherwise provided in this First Supplemental Indenture, the provisions of the Original Indenture are hereby ratified, approved and confirmed and incorporated herein and shall be applicable to the authorization, execution, authentication, issuance, redemption, payment, sale and delivery of the Series 2008A Notes, the custody and the distribution of the proceeds and the security, payment, redemption and enforcement of payment thereof.

Section 4.04 Severability. If any provision in the First Supplemental Indenture or in the Series 2008A Bonds shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 4.05 Governing Law. This First Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of Missouri.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the City of St. Louis, Missouri, has caused this Trust Indenture to be signed in its name and behalf by its elected officials and its corporate seal to be hereunto affixed and attested by the City Register, all as of the day first above written.

APPROVED AS TO FORM

CITY OF ST. LOUIS, MISSOURI

By: Patricia A. Hageman, City Counselor

By: Francis G. Slay Mayor

ATTEST:

By: Darlene Green Comptroller

Parrie L. May Register

[SEAL]

IN WITNESS WHEREOF, to evidence its acceptance of the trusts hereby created, UMB Bank, N.A., has caused these presents to be signed in its name and behalf and its corporate seal to be hereunto affixed and attested by its duly authorized officers, all as of the day and year first above written.

UMB BANK, N.A., as Trustee

By: Title:

[SEAL]

ATTEST:

By: Title:

CONSENT TO EXECUTION OF FIRST SUPPLEMENTAL INDENTURE

The undersigned authorized officer of Grand Center, Inc. hereby acknowledges Grand Center, Inc.'s consent to the execution and delivery of the foregoing First Supplemental Trust Indenture, dated as of November 1, 2008, between the City of St.

Louis, Missouri and UMB Bank, N.A., as trustee.

Dated this ____ day of November, 2008.

GRAND CENTER, INC.

By: _____
Name: _____
Title: _____

The undersigned authorized officer of Grand Center, Inc. hereby (1) certifies that Grand Center, Inc. is the registered owner of all of the outstanding (a) \$750,000 principal amount Tax-Exempt Tax Increment Revenue Notes (Grand Center/SLU Redevelopment Area), Series B, (b) \$3,000,000 Tax-Exempt Tax Increment Revenue Notes (Grand Center/SLU Redevelopment Area), Series B, and (c) \$960,000 principal amount Tax-Exempt Increment Revenue Notes (Humboldt Phase I Project), Series B, issued by the City of St. Louis, Missouri (“City”) pursuant to the Trust Indenture dated as of November 1, 2006, between the City and UMB Bank, N.A., as trustee (the “Trustee”), and (2) consents to the execution and delivery of the foregoing First Supplemental Trust Indenture, dated as of November 1, 2008, between the City and the Trustee.

Dated this ____ day of November, 2008.

GRAND CENTER, INC.

By: _____
Name: _____
Title: _____

**CONSENT TO EXECUTION OF
FIRST SUPPLEMENTAL INDENTURE**

The undersigned authorized officer of U.S. Bank National Association (“Lender”), hereby (1) certifies that under that certain Assignment, Pledge and Security Agreement, dated as of September 25, 2006, executed by Grand Center, Inc. for the benefit of Lender, the Lender is pledgee of the outstanding (a) \$750,000 principal amount Tax-Exempt Tax Increment Revenue Notes (Grand Center/SLU Redevelopment Area), Series B, (b) \$3,000,000 Tax-Exempt Tax Increment Revenue Notes (Grand Center/SLU Redevelopment Area), Series B, and (c) \$960,000 principal amount Tax-Exempt Increment Revenue Notes (Humboldt Phase I Project), Series B, issued by the City of St. Louis, Missouri (“City”) pursuant to the Trust Indenture dated as of November 1, 2006, between the City and UMB Bank, N.A., as trustee (the “Trustee”), and (2) consents to the execution and delivery of the foregoing First Supplemental Trust Indenture, dated as of November 1, 2008, between the City and the Trustee.

Dated this ____ day of November, 2008.

U.S. BANK NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

EXHIBIT A

Costs of Issuance

Paid from Costs of Issuance Account of Project Fund

<u>Payee</u>	<u>Amount</u>
Armstrong Teasdale LLP	\$25,000.00
UMB Bank, N.A., as Trustee	\$850.00

**EXHIBIT B
FORM OF NOTE PURCHASE AGREEMENT
(Attached hereto.)**

TIF NOTE PURCHASE AGREEMENT

This Tax Increment Revenue Note Purchase Agreement (the “Agreement”) is made and entered into this __ day of _____, 2008, by and among the City of St. Louis, Missouri, a body corporate and political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri (the “City”), U.S. Bank National Association, a national banking association, and its successors and assigns (“Purchaser”), and Grand Center, Inc., a Missouri

non-profit corporation (“Developer”) (the City, Purchaser, and Developer may be referred to collectively herein as the “Parties”).

WITNESSETH:

WHEREAS, pursuant to Ordinance No. 65703, the City designated a portion of the City as a Redevelopment Area known as the Grand Center Redevelopment Area (the “Redevelopment Area”), approved a Redevelopment Plan dated August 2, 2002, as amended (the “Redevelopment Plan”) for such Redevelopment Area, and the series of Redevelopment Projects described therein, adopted tax increment allocation financing within the Redevelopment Area, and established the Grand Center Special Allocation Fund, all as provided for and in accordance with Sections 99.800 to 99.865 RSMo. (the “TIF Act”); and

WHEREAS, pursuant to Ordinance No. 65857, the City and Developer entered into that certain Redevelopment Agreement dated as of April 24, 2003, as amended by: (i) that certain First Amendment to Redevelopment Agreement dated May 23, 2005, as authorized by Ordinance No. 66431, and (ii) that certain Second Amendment to Redevelopment Agreement dated as of July 11, 2006, as authorized by Ordinance No. 67059, all in furtherance of the Redevelopment Plan (such agreement as so amended and as may be amended from time to time being the “Redevelopment Agreement”); and

WHEREAS, as authorized pursuant to Ordinance No. 67060, as amended by Ordinance No. _____ [Board Bill ____] (the “Note Ordinance”), the City entered into that certain Trust Indenture with UMB Bank, N.A. dated November 1, 2006 (as modified, amended and supplemented by that certain First Supplemental Trust Indenture dated as of _____, 2008, [the “First Supplemental Indenture”], the “Indenture”; all references herein to the Indenture are to such Indenture as modified, amended and supplemented by the First Supplemental Indenture) and agreed to finance a portion of the costs of the Redevelopment Projects by utilizing tax increment allocation financing in accordance with the TIF Act, and agreed to issue, from time to time, among others, certain tax exempt tax increment revenue notes entitled “Series A (Grand Center/SLU Redevelopment Project)” (the “Series A Notes”) , to evidence the City’s obligation to reimburse Developer for certain Issuance Costs and Reimbursable Redevelopment Project Costs in connection with Phase I Redevelopment Projects (all as defined in the Indenture); and

WHEREAS, in accordance with and pursuant to the Note Ordinance and the Indenture, the Series A Note(s) are payable solely from certain revenues deposited into the Special Allocation Fund and the other funds of the City created and established with the Trustee pursuant to the terms of the Indenture; and

WHEREAS, the Parties have determined that it is in the best interest of the Parties to sell the Series A Note(s) to Purchaser in accordance with the Note Ordinance and the Indenture and subject to the terms and conditions provided for herein; and

WHEREAS, the Redevelopment Agreement, Redevelopment Plan, Ordinance Nos. 65703, 65857, 66431, 67059, 67060, and _____ [Board Bill ____] the Indenture, the First Supplemental Indenture, and Series A Note(s) issued in connection therewith, and all other documents and agreements between the City and Developer relating thereto are collectively referred to herein as the “Development Documents”.

NOW THEREFORE, in consideration of the foregoing recitals, the agreements, promises and covenants herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties to this Agreement hereby agree as follows:

ARTICLE I. DEFINITIONS

1.1. DEFINITION OF WORDS AND TERMS. Capitalized words and terms used herein shall have the meaning set forth in the Development Documents unless some other meaning is plainly indicated. Unless when otherwise specified, when used herein, the term the “SLU Arena Redevelopment Project” shall mean the Redevelopment Project identified as such in the Redevelopment Agreement and Redevelopment Plan.

ARTICLE II. SALE AND PURCHASE OF TIF NOTE(S)

2.1. PURCHASE, SALE AND DELIVERY OF THE TIF NOTE(S). Subject to the terms and conditions herein set forth, Purchaser agrees to purchase from the City of all of the Series A Note(s) which may be issued pursuant to the Redevelopment Plan or Indenture at a purchase price of \$ _____ (the “Purchase Price”), which Purchase Price is equal to ____ % of the aggregate maximum principal amount authorized to be issued by the City pursuant to the Indenture. The TIF Note(s) shall be issued under and secured as provided, have the maturities and interest rates and be subject to redemption as set forth, in the Indenture.

Payment for the TIF Note shall be made by federal wire transfer or certified or official bank check or draft in immediately available federal funds payable to the order of the City to the Trustee for deposit to the accounts described in the Indenture, at the offices of _____ on _____, 2008, (the “Closing Date”), which shall occur within ten (10) days of the fulfillment of all conditions to sale as provided for herein, or such other place or later date as shall be mutually agreed upon by the Parties in writing.

**ARTICLE III.
CONDITIONS TO SALE**

3.1. CONDITIONS TO PURCHASER'S OBLIGATIONS. Purchaser's obligations hereunder shall be subject to the due performance by the City and/or Developer of their respective obligations and agreements to be performed hereunder and under the Development Documents on or prior to the Closing Date, which include but are not limited to the following:

(a) The City and Developer shall have duly authorized, executed or adopted, as appropriate, and delivered to Purchaser a certified copy of the Redevelopment Agreement by and between the City and Developer;

(b) Developer shall have duly recorded the Redevelopment Agreement in the City of St. Louis, Recorder of Deeds Office, and shall have provided to Purchaser evidence of the same;

(c) The City shall have delivered to Purchaser a certified copy of the Note Ordinance of the City authorizing and approving the execution and delivery of the Series A Note(s);

(d) The City shall have delivered to Purchaser a certified copy of the Indenture and the First Supplemental Indenture;

(e) The Developer, in accordance with the Redevelopment Agreement, shall have satisfied any and all conditions to the issuance of the Series A Notes pursuant to the terms of the Redevelopment Agreement for an amount equal to the aggregate maximum principal amount not less than _____ Dollars and ___/100 (\$ _____), as authorized to be issued by the City pursuant to the Development Documents;

(f) The City shall have delivered to Purchaser an opinion of Bond Counsel (as such term is defined in the Indenture) addressed to Purchaser, which provides to the satisfaction of Purchaser in its sole discretion, that: (i) the interest on the Series A Notes shall be excludable from income for federal and state tax purposes, (ii) whether the Series A Notes are bank-qualified, and (iii) such other legal matters as Purchaser may require;

(g) The City shall have delivered to Purchaser an opinion of counsel to the City addressed to Purchaser, which provides to the satisfaction of Purchaser in its sole discretion, that: (i) the Development Documents have all been validly adopted and duly authorized by all necessary action of the City, (ii) the valid issuance and enforceability of the Series A Notes against the City, and (iii) such other legal matters as Purchaser may require;

(h) The City shall provide to Purchaser such additional certificates, legal and other documents, as Purchaser may reasonably request to evidence performance or compliance with the provisions hereof and the transactions contemplated hereby, by the Indenture and by the Note Ordinance, all such certificates and other documents to be satisfactory in form and substance to Purchaser;

(i) The City shall have duly created and established the Grand Center Special Allocation Fund, and all other funds to be created pursuant to the Indenture, and, in accordance with the Redevelopment Agreement, shall have determined, certified and provided to Developer the total equalized assessed value of all taxable property within Redevelopment Area (and each phase or sub-area thereof, including, but not limited to, the SLU Sub-Area, as defined in the Indenture) as of the date of Ordinance No. 65703, and shall have determined, certified and provided to Developer the total amount of revenue from taxes, penalties and interest which were imposed by the City or other taxing districts, and which were generated by economic activities within the Redevelopment Area (and each phase or sub-area thereof, including, but not limited to, the SLU Sub-Area, as defined in the Indenture) in the calendar year prior to the adoption of Ordinance No. 65703, but excluding certain taxes as set forth in §99.845.3 of the TIF Act.

**ARTICLE IV.
COVENANTS AND REPRESENTATIONS**

4.1. COVENANTS AND REPRESENTATIONS OF DEVELOPER.

(a) Developer hereby covenants and agrees to perform its obligations under the Development Documents including, but not limited to, timely completion of the SLU Arena Redevelopment Project in accordance with the Redevelopment Plan and Redevelopment Agreement and further, timely submission to the City Certificate(s) of Reimbursable Redevelopment Project Costs for Redevelopment Project Costs that qualify as a "redevelopment project cost" under Section 99.805(14) of the TIF Act with respect to the SLU Arena Redevelopment Project and in accordance with the Redevelopment Agreement in an amount equal to not less than \$ _____, which amount equals the aggregate maximum principal amount of Series A Notes to be issued in accordance with the Indenture. The Developer shall exercise its best efforts to ensure acceptance and approval by the City of such Certificate(s) of Reimbursable Redevelopment Project Costs equal to the amount as provided for in this Section 4.1. Furthermore, the Developer covenants and agrees to provide to the City of St. Louis, with a copy to Purchaser, by March 15 of each year, a statement of all SLU Economic Activity Tax Revenues generated within the SLU Sub-Area during the then preceding calendar year.

Developer further covenants (which covenant shall survive the closing contemplated hereunder) that, in the event of a casualty, if Saint Louis University ("Sub-Developer"), as Sub-Developer under that certain Parcel Development Agreement by and between Developer and Sub-Developer dated as of September 14, 2006, as may be from time to time amended with the written consent of

Purchaser, acting in its sole discretion (the "PDA") provides any insurance proceeds to Developer pursuant to its obligation under such PDA (the "Casualty Proceeds"), then Developer shall, within fifteen (15) days of receipt thereof, remit any such Casualty Proceeds to Purchaser, up to the then outstanding principal amount of the Series A Notes. Developer agrees that it shall not amend the PDA without the written consent of Purchaser, acting in its sole discretion.

- (b) Developer hereby represents and warrants that:
 - (i) Developer has full power to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing have been duly and validly authorized by all necessary corporate proceedings. This Agreement constitutes the legal, valid and binding obligation of Developer, enforceable in accordance with its terms.
 - (ii) Developer is not in default under the Development Documents and has not breached any of the terms of the Development Documents.
 - (iii) There is no litigation or proceeding pending or threatened against or affecting Developer which would materially adversely affect the Development Documents, the projects described therein, or the ability of Developer to perform any of its obligations under the Development Documents and this Agreement.
 - (iv) Developer has not sold, conveyed, pledged, assigned, transferred or encumbered, collaterally or otherwise, the Series A Notes, and Developer is not aware of any claim or interest of any other person or entity with respect to the Series A Notes or the Development Documents as they pertain to the Series A Notes, or that would in any way limit, restrict or inhibit Purchaser's rights to receive payments of principal and interest under, or to otherwise enjoy the benefits of ownership of the Series A Notes.

4.2. COVENANTS AND REPRESENTATIONS OF CITY.

(a) The City hereby covenants and agrees for the benefit of Purchaser to observe and perform all of its covenants and obligations under the Development Documents. In addition, the City hereby covenants and agrees that at anytime during the term of the Redevelopment Agreement, should the City become the owner of record of any parcel(s) within the Redevelopment Area to enforce the terms of the Redevelopment Agreement. The City hereby covenants that, notwithstanding any default of Developer (or any other person or entity) under the Development Documents, the City shall faithfully perform and honor its obligations under the Series A Notes, including but not limited to, its obligations to make payments thereunder. The City covenants and agrees that its obligations under the Series A Notes shall not be affected or abridged in any way by a default by Developer under the Development Documents.

- (b) The City hereby represents and warrants that:
 - (i) The City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, including without limitation the right, power and authority to issue and sell the Series A Note(s), and all of the foregoing have been duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms, and upon issuance, the Series A Note(s) shall be the valid and binding obligation of the City.
 - (ii) The Development Documents are in full force and effect on the Closing Date and represent the valid, binding and enforceable obligations of the City. The City is not in default under the Development Documents and has not breached any of the terms of the Development Documents. To the best knowledge of the Mayor in consultation with the St. Louis Development Corporation ("SLDC"), Developer is not in default under the Redevelopment Agreement and has not breached any of the terms of the Redevelopment Agreement. As of the Closing Date and to the best knowledge of the Mayor in consultation with SLDC, the City has no claims against Developer, and no offsets or defenses against the performance of its obligations under the Redevelopment Agreement.
 - (iii) The City has not subordinated or caused to be subordinated its interest in the Development Documents to any deed of trust or other lien. The City has not sold, transferred or assigned the Development Documents or otherwise incurred or granted a lien or encumbrance of its interest in the Development Documents.
 - (iv) To the best knowledge of the Mayor in consultation with the SLDC, there is no litigation or proceeding pending or threatened against or affecting the City which would materially adversely affect the Development Documents, the projects described therein, or the ability of the City to perform any of its obligations under the Development Documents or this Agreement.
 - (v) The City has received no notice of prior sale, transfer or assignment, hypothecation or pledge of Developer's interest in the Series A Note(s).

- (vi) Neither of the following events has occurred: (a) the filing of a petition in bankruptcy, insolvency or reorganization affecting the City, or (b) the filing of a petition for the appointment of a receiver or trustee, affecting the City.
- (vii) The City hereby covenants and agrees that during the term of the Redevelopment Agreement, the City will not authorize or grant tax abatement for any parcel of real property within the Redevelopment Area.

4.3. COVENANTS AND REPRESENTATIONS OF PURCHASER. Purchaser hereby represents to and for the benefit of the City and Developer that:

(a) Purchaser has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of limited revenue obligations, to be able to evaluate the risks and merits of the investment represented by the purchase by Purchaser of the Series A Note(s). Purchaser is able to bear the economic risk represented by the purchase by Purchaser of the Series A Note(s). Purchaser understands that the Series A Note(s) are repayable solely from certain revenues in the Special Allocation Fund described in the Note Ordinance and, with respect to the EATs portion of the funds therein, subject to appropriation.

(b) Purchaser has made its own inquiry and analysis with respect to or affecting the likelihood of the payment of the Series A Note(s). Purchaser acknowledges that the City has offered to give access, without restriction or limitation, to all information to which a reasonable investor would attach significance in making investment decisions.

(c) Purchaser acknowledges that the City has not made any representation or warranty concerning the accuracy or completeness of any information furnished in connection with the purchase by Purchaser of the Series A Note(s). As a sophisticated investor, Purchaser has made its own decision to purchase the Series A Note(s) based solely upon its own inquiry and analysis.

(d) Purchaser understands that the Series A Note(s) does not constitute an indebtedness of the City or a loan or credit thereof within the meaning of any constitutional or statutory debt limitation or restriction.

(e) Purchaser is familiar with and has counsel who are familiar with the federal and state legislation, rules, regulations and case law pertaining to the transfer and distribution of securities, including, but not limited to, disclosure obligations of the seller incident to any such transfer or distribution. Purchaser hereby covenants and agrees that Purchaser will not sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage or dispose of the Series A Note(s) or any interest therein in violation of applicable federal or state law or in violation of restrictions on transfer set forth in the Series A Note(s).

(f) Purchaser is purchasing the Series A Note(s) for its own account for investment (and not on behalf of another) and has no present intention of reselling the Series A Note(s) or dividing its interest therein, either currently or after passage of a fixed or determinable period of time or upon the occurrence or nonoccurrence of any predetermined event or circumstance; but Purchaser reserves the right to sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage or dispose of the Series A Note(s) at some future date determined by it.

(g) Purchaser acknowledges that the right to transfer, assign or negotiate the Series A Note(s) shall be limited to transfer, assignment or negotiation in accordance with the terms of the Series A Note(s), the Indenture and the Note Ordinance.

(h) Purchaser has satisfied itself that the Series A Note(s) may be legally purchased by Purchaser.

**ARTICLE V.
PURCHASER'S RIGHTS AND INTEREST**

5.1. ACKNOWLEDGMENT OF PURCHASER'S RIGHTS AND INTEREST IN SERIES A NOTE.

(a) The City has agreed to issue tax exempt Series A Note(s) to evidence City's obligations to Developer under the Redevelopment Agreement and Note Ordinance, which Series A Note(s) shall be endorsed from time to time on the Schedule A thereto to evidence the amount of City's indebtedness to Purchaser.

(b) Developer and Purchaser hereby direct the City to cause the Trustee to hold the Series A Note(s) (as and when issued in accordance with the Redevelopment Agreement, the Indenture and Note Ordinance), together with endorsement(s) thereof to the order of Purchaser or Purchaser's designee, as Purchaser may from time to time direct the City in writing, to enable Purchaser to constructively hold (through possession in trust by the Trustee) such Series A Note(s). The Parties hereto further acknowledge that any time the Trustee, holds the Series A Note(s), the Trustee is doing so solely on the account of and for the exclusive benefit of Purchaser or Purchaser's designee.

(c) The City shall take such other steps as Purchaser may direct in order to insure the validity and first priority status of its lien against and security interest in such Series A Note(s) in accordance with the terms of the Indenture promptly upon Purchaser's written request therefor as set forth in such request, provided, however, that the City shall not be responsible for and makes no representation as to the value or condition of the Series A Note(s) or as to the validity or first priority status of Purchaser's lien on and security interest in such Series A Note(s).

(d) The Parties acknowledge that pursuant to the terms of the Note Ordinance and the Indenture, Purchaser is entitled

to actual physical possession of the Series A Note(s), and any possession by the Trustee thereof from time to time is solely as Purchaser's bailee. So long as any Series A Note is registered in the name of Purchaser, no exchange, transfer or cancellation of any Series A Note(s) shall be made without Purchaser's prior written consent, and no exchange shall be effective unless any such substitute Series A Note(s) is issued subject to the terms and conditions of the Note Ordinance and the Indenture.

(e) The Parties acknowledge that the Trustee shall endorse the Series A Note(s) only as provided in the Indenture and Redevelopment Agreement and, upon each such endorsement, shall send a copy, as so endorsed, to Purchaser as provided in the Indenture and the notice provision of this Agreement.

(f) The Parties further acknowledge, and Developer acknowledges and agrees and irrevocably directs, that all payments of principal, interest or other amounts paid under the Series A Note(s), including without limitation, any amounts paid in full or partial redemption of the Series A Note(s), shall be paid to Purchaser for application in accordance with the Indenture.

ARTICLE VI. CLOSING

6.1. CLOSING. On the Closing Date:

- (a) Purchaser shall remit the Purchase Price to the Trustee in accordance with Section 2.1 of this Agreement and Section __ of the First Supplemental Indenture.
- (b) The Developer shall cause the Trustee to disburse the Purchase Price as described in the First Supplemental Indenture.
- (c) Developer shall pay to the City all fees and costs due and owing to the City and/or SLDC pursuant to the Redevelopment Agreement.
- (d) Developer shall pay to the Comptroller an additional amount to reimburse the Comptroller for its actual legal expenses incurred in connection with the negotiation and execution of the Note Purchase Agreement.
- (e) The City shall issue to Purchaser one Series A Note(s) in an amount equal to \$_____.
- (f) The Parties shall deliver all documents necessary to satisfy the conditions of Section 3.1 of this Agreement.

ARTICLE VII. MISCELLANEOUS

7.1. AMENDMENT OF DEVELOPMENT DOCUMENTS. The Parties hereby acknowledge and agree that the Redevelopment Agreement, including, but not limited to Article VII thereof, is hereby amended and modified to conform to the terms of this Agreement. The Parties further hereby acknowledge and agree that during the term of the Redevelopment Agreement, neither the City nor Developer shall, without the prior written consent of each of the Parties hereto, (a) amend or modify any of the Development Documents other than as amended or modified by this Agreement and the First Supplemental Indenture, (b) cancel or terminate any of the Development Documents in contravention of the provisions of this Agreement, or (c) assign any of the Development Documents in contravention of the provisions of this Agreement or the Development Documents.

7.2. TERMINATION. This Agreement shall terminate upon the earlier of: (a) the mutual written consent of each of the Parties; (b) the payment in full, satisfaction and discharge of all of the principal of and interest on all the Series A Note(s); or (c) the Maturity Date of the Series A Note(s).

7.3. ASSIGNMENT; BINDING EFFECT.

(a) Notwithstanding any provision of the Development Documents to the contrary, in addition to any consent of the City required pursuant to the Redevelopment Agreement, the Parties hereby expressly acknowledge and agree that the rights, duties, interests and obligations of Developer under the Redevelopment Agreement and Development Documents shall not be assigned in whole or in part without the prior written consent of the Purchaser, which consent shall not be unreasonably withheld or delayed upon written agreement that such assignee assumes all of the duties and obligations of Developer under this Agreement.

(b) The Parties hereby acknowledge and agree that Purchaser may assign this Agreement at any time upon written notice to the Parties.

(c) This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, administrators, executors, personal representatives, successors and assigns.

7.4. WAIVER. No waiver of any breach or default hereunder shall constitute or be construed as a waiver by Purchaser of any subsequent breach or default or of any breach or default of any other provisions of this Agreement. Any waiver by Purchaser must be in writing and will not be construed as a continuing waiver. No waiver will be implied from any delay or failure to take action on account of any default of Developer or the City.

7.5. NOTICES. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given if and when received if personally delivered, or on the second business day after being deposited in United States registered or certified mail, postage prepaid, and addressed to a party at its address set forth below or to such other address the party to receive such notice may have designated to all other Parties by notice in accordance herewith:

If to Purchaser:

U.S. Bank National Association
1307 Washington Avenue, Suite 300
SL-MO-RMCD
St. Louis, Missouri 63103
Attention: Loan Administration

with copies to:

Husch Blackwell Sanders LLP
190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105
Attention: Edward J. Lieberman

If to City:

City of St. Louis, Missouri
City Hall
Tucker and Market Streets
St. Louis, Missouri 63103
Attention: Mayor, Room 200
Attention: Comptroller, Room 311

with copies to:

St. Louis Development Corporation
1015 Locust Street, Suite 1200
St. Louis, Missouri 63103
Attention: Executive Director

and to:

Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102
Attention: Thomas J. Ray, Esq.

If to Developer:

Grand Center, Inc.
634 N. Grand, Suite 10A
St. Louis, MO 63108
Attention: President

with copies to:

Bryan Cave LLP
One Metropolitan Square, Suite 2600
St. Louis, MO 63102-2750
Attention: Linda M. Martinez

or to such other address the party to receive such notice may have theretofore furnished to all other Parties by notice in accordance herewith. Except as otherwise specifically required herein, no notice of the exercise of any right or option granted to Purchaser herein is required to be given.

7.6. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement.

7.7. GOVERNING LAW This Agreement and the terms, provisions and conditions herewith shall be governed by and construed and enforced in accordance with the internal laws of the State of Missouri (without giving effect to the conflicts of law provisions thereof).

7.8. GENERAL. This Agreement may not be modified or amended except by written agreement of the Parties hereto. The headings contained herein have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms and provisions hereof. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement represents the entire agreement between the Parties and all prior negotiations and communications between the Parties concerning the purchase of the Series A Note are superseded hereby.

7.9. RIGHTS HEREUNDER. This Agreement is made for the benefit of the City, Developer, and Purchaser, and no other person shall acquire or have any rights hereunder or by virtue hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the year and date first set forth above.

“CITY”

CITY OF ST. LOUIS, MISSOURI, a municipal corporation

By: _____
Mayor

By: _____
Comptroller

“PURCHASER”

U.S. BANK NATIONAL ASSOCIATION, a national lending association

By: _____
JeriLynn Young, Vice President

“DEVELOPER”

GRAND CENTER, INC., a Missouri corporation

By: _____
Name: _____
Its: _____

Approved: November 24, 2008

**ORDINANCE #68181
Board Bill No. 258**

AN ORDINANCE DESIGNATING A PORTION OF THE CITY OF ST. LOUIS, MISSOURI AS A REDEVELOPMENT AREA KNOWN AS THE CHEMICAL BUILDING REDEVELOPMENT AREA PURSUANT TO THE REAL PROPERTY TAX INCREMENT ALLOCATION REDEVELOPMENT ACT; APPROVING A REDEVELOPMENT PLAN AND A REDEVELOPMENT PROJECT WITH RESPECT THERETO; ADOPTING TAX INCREMENT FINANCING WITHIN THE REDEVELOPMENT AREA; MAKING FINDINGS WITH RESPECT THERETO; ESTABLISHING THE CHEMICAL BUILDING SPECIAL ALLOCATION FUND; AUTHORIZING CERTAIN ACTIONS BY CITY OFFICIALS; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS, the City of St. Louis, Missouri (the “City”), is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, on December 20, 1991, pursuant to Ordinance No. 62477, the Board of Aldermen of the City created the Tax Increment Financing Commission of the City of St. Louis, Missouri (the “TIF Commission”); and

WHEREAS, the TIF Commission is duly constituted according to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri (2000), as amended (the “TIF Act”), and is authorized to hold public hearings with respect to proposed redevelopment areas and redevelopment plans and to make recommendations thereon to the City; and

WHEREAS, staff and consultants of the City and Chemical Building Acquisition, LLC, a Missouri limited liability company (the “Developer”), prepared a plan for redevelopment titled the “Chemical Building TIF Redevelopment Plan” dated August

29, 2008 (the "Redevelopment Plan") for an area consisting of a portion of one tax parcel located in City Block 181 which parcel is commonly known and numbered as 777 Olive Street (the "Redevelopment Area" or "Area"), which Redevelopment Area is more fully described in the Redevelopment Plan, attached hereto and incorporated herein as **Exhibit A**; and

WHEREAS, the Redevelopment Plan proposes to redevelop the Redevelopment Area by rehabilitation and redevelopment of the building in the Redevelopment Area into commercial space, as set forth in the Redevelopment Plan (the "Redevelopment Project," or "TIF Project"); and

WHEREAS, on October 15, 2008, after all proper notice was given, the TIF Commission held a public hearing in conformance with the TIF Act and received comments from all interested persons and taxing districts relative to the Redevelopment Area, the Redevelopment Plan, and the Redevelopment Project; and

WHEREAS, on October 15, 2008, the TIF Commission found that completion of the Redevelopment Project would provide a substantial and significant public benefit through the elimination of blighting conditions, the creation of new jobs in the City, increased property values and tax revenues, preservation of historic structures, stabilization of the Redevelopment Area, facilitation of the economic stability of the City as a whole, and further found that without the assistance of tax increment financing in accordance with the TIF Act, the Redevelopment Project is not financially feasible and would not otherwise be completed; and

WHEREAS, on October 15, 2008, the TIF Commission voted to recommend that the Board of Aldermen adopt an ordinance in the form required by the Act (i) adopting tax increment financing within the Redevelopment Area, (ii) approving the Redevelopment Plan, (iii) approving and designating the Redevelopment Area as a "redevelopment area" as provided in the Act, (iv) approving the Redevelopment Project as described within the Redevelopment Plan, and (v) approving the issuance of one or more tax increment financing revenue notes in the amount as specified in the Redevelopment Plan; and

WHEREAS, the Developer has demonstrated that the Redevelopment Project would not reasonably be anticipated to be developed without the adoption of tax increment financing and, therefore, redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan is not feasible and would not otherwise be completed; and

WHEREAS, the Board of Aldermen has received the recommendations of the TIF Commission regarding the Redevelopment Area and the Redevelopment Plan and finds that it is desirable and in the best interests of the City to designate the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, adopt the Redevelopment Plan and Redevelopment Project in order to encourage and facilitate the redevelopment of the Redevelopment Area; and

WHEREAS, the Redevelopment Area qualifies for the use of tax increment financing to alleviate the conditions that qualify it as a "blighted area" as provided in the TIF Act and as set forth herein; and

WHEREAS, the property constituting the Redevelopment Area is underutilized and predominantly vacant, thus discouraging investment and encouraging crime and vagrancy, and the Redevelopment Area represents a social and economic liability to the City; and

WHEREAS, it is necessary and desirable and in the best interest of the City to approve the Redevelopment Project to allow the rehabilitation of the building in the Redevelopment Area into commercial and residential space; and

WHEREAS, it is necessary and desirable and in the best interest of the City to adopt tax increment allocation financing within the Redevelopment Area and to establish a special allocation fund for the Redevelopment Area in order to provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City of St. Louis, providing for a stabilized population and plan for the optimal growth of the City of St. Louis, encouragement of a sense of community identity, safety and civic pride, and the elimination of impediments to land disposition and development in the City of St. Louis.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Board of Aldermen hereby makes the following findings:

A. The Redevelopment Area on the whole is a "blighted area", as defined in Section 99.805 of the TIF Act, and has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing. This finding includes, the Redevelopment Plan sets forth, and the Board of Aldermen hereby finds and adopts by reference: (i) a detailed description of the factors that qualify the Redevelopment Area as a "blighted area" and (ii) an affidavit, signed by the Developer and submitted with the Redevelopment Plan, attesting that the provisions of Section 99.810.1(1) of the TIF Act have been met, which description and affidavit are incorporated herein as if set forth herein.

B. The Redevelopment Plan conforms to the comprehensive plan for the development of the City as a whole.

C. In accordance with the TIF Act, the Redevelopment Plan states the estimated dates of completion of the Redevelopment Project and retirement of the financial obligations issued to pay for certain redevelopment project costs and these dates are twenty three (23) years or less from the date of approval of the Redevelopment Project.

D. A plan has been developed for relocation assistance for businesses and residences as set forth in Ordinance No. 62481 adopted December 20, 1991.

E. A cost-benefit analysis showing the economic impact of the Redevelopment Plan on each taxing district which is at least partially within the boundaries of the Redevelopment Area is on file with the St. Louis Development Corporation, which cost-benefit analysis shows the impact on the economy if the Redevelopment Project is not built, and if the Redevelopment Project is built pursuant to the Redevelopment Plan as well as a fiscal impact study on every affected political subdivision and sufficient information for the TIF Commission to evaluate whether the Redevelopment Project is financially feasible.

F. Redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan is not financially feasible without the assistance of tax increment financing and would not otherwise be completed.

G. The Redevelopment Plan does not include the initial development or redevelopment of any "gambling establishment" as that term is defined in Section 99.805(6) of the TIF Act.

H. The Redevelopment Area includes only those parcels of real property and improvements thereon directly and substantially benefitted by the proposed Redevelopment Project.

SECTION TWO. The Redevelopment Area described in the Redevelopment Plan is hereby designated as a "redevelopment area" as defined in Section 99.805(11) of the TIF Act.

SECTION THREE. The Redevelopment Plan as reviewed and recommended by the TIF Commission on October 15, 2008, including amendments thereto, if any, and the Redevelopment Project described in the Redevelopment Plan are hereby adopted and approved. A copy of the Redevelopment Plan is attached hereto as **Exhibit A** and incorporated herein by reference.

SECTION FOUR. There is hereby created and ordered to be established within the treasury of the City a separate fund to be known as the "Chemical Building Special Allocation Fund." To the extent permitted by law and except as otherwise provided in the Redevelopment Plan, the City hereby pledges funds in the Chemical Building Special Allocation Fund for the payment of redevelopment project costs and obligations incurred in the payment thereof.

SECTION FIVE. Tax increment allocation financing is hereby adopted within the Redevelopment Area. After the total equalized assessed valuation of the taxable real property in the Redevelopment Area exceeds the certified total initial equalized assessed valuation of the taxable real property in the Redevelopment Area, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in the Redevelopment Area by taxing districts and tax rates determined in the manner provided in Section 99.855.2 of the TIF Act each year after the effective date of this Ordinance until redevelopment costs have been paid shall be divided as follows:

A. That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in the area selected for the Redevelopment Project shall be allocated to and, when collected, shall be paid by the City Collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;

B. Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected for the Redevelopment Project and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property in the area selected for the Redevelopment Project shall be allocated to and, when collected, shall be paid to the City Treasurer, who shall deposit such payments in lieu of taxes into the Chemical Building Special Allocation Fund for the purpose of paying redevelopment costs and obligations incurred in the payment thereof. Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate of the Redevelopment Project from which they are derived and shall be collected in the same manner as the real property tax, including the assessment of penalties and interest where applicable.

SECTION SIX. In addition to the payments in lieu of taxes described in Section Five of this Ordinance, fifty percent (50%) of the total additional revenue from taxes, penalties and interest which are imposed by the City or other taxing districts, and which are generated by economic activities within the area of the Redevelopment Project over the amount of such taxes generated by economic activities within the area of the Redevelopment Project in the calendar year prior to the adoption of the Redevelopment Project by ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri (2000) as amended, or taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri (2000) as amended, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, shall be allocated to, and paid by the collecting officer to the City Treasurer or other designated financial officer of the City, who shall deposit such funds in a separate segregated account within the Chemical Building Special Allocation Fund.

SECTION SEVEN. The Comptroller of the City is hereby authorized to enter into agreements or contracts with other taxing districts as necessary to ensure the allocation and collection of the taxes and payments in lieu of taxes described in Sections Five and Six of this Ordinance and the deposit of the said taxes or payments in lieu of taxes into the Chemical Building Special Allocation Fund for the payment of redevelopment project costs and obligations incurred in the payment thereof, all in accordance with the TIF Act.

SECTION EIGHT. The City Register is hereby directed to submit a certified copy of this Ordinance to the City Assessor, who is directed to determine the total equalized assessed value of all taxable real property within the Redevelopment Area as of the date of this Ordinance, by adding together the most recently ascertained equalized assessed value of each taxable lot, block, tract or parcel of real property within the Redevelopment Area, and shall certify such amount as the total initial equalized assessed value of the taxable real property within the Redevelopment Area.

SECTION NINE. The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions as may be necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such action by the Mayor and the Comptroller or their designated representatives.

SECTION TEN. The Mayor and the Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such changes by the Mayor and the Comptroller or their designated representatives.

SECTION ELEVEN. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

SECTION TWELVE. After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over his veto; *provided that* if, within ninety (90) days after the effective date of an ordinance authorizing the City to enter into a redevelopment agreement pertaining to the Redevelopment Project, the Developer or its affiliate or designee, has not (i) executed such redevelopment agreement and (ii) paid all fees due to the City in accordance with the terms of the redevelopment agreement, the provisions of this Ordinance shall be deemed null and void and of no effect and all rights conferred by this Ordinance on Developer, shall terminate, *provided further*, however, that prior to any such termination the Developer may seek an extension of time in which to execute the Redevelopment Agreement, which extension may be granted in the sole discretion of the Board of Estimate and Apportionment of the City of St. Louis.

**EXHIBIT A
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN**

**CHEMICAL BUILDING
TIF REDEVELOPMENT PLAN**

**Submitted to
the City of St. Louis
Tax Increment Financing Commission
August 29, 2008**

**CHEMICAL BUILDING
TIF REDEVELOPMENT PLAN**

TABLE OF CONTENTS

I.	INTRODUCTION
II.	OVERVIEW OF TAX INCREMENT FINANCING
III.	REDEVELOPMENT PLAN INCLUDING NECESSARY FINDINGS
1.	LEGAL DESCRIPTION AND MAP OF THE REDEVELOPMENT AREA
2.	REDEVELOPMENT PLAN OBJECTIVES
3.	REDEVELOPMENT PROJECT
4.	GENERAL LAND USES TO APPLY
5.	REDEVELOPMENT SCHEDULE AND ESTIMATED DATES OF COMPLETION
6.	MOST RECENT EQUALIZED ASSESSED VALUE OF PARCELS WITHIN REDEVELOPMENT AREA
7.	ESTIMATED EQUALIZED ASSESSED VALUE AFTER REDEVELOPMENT
8.	ACQUISITION
9.	BLIGHTED AREA
10.	CONFORMS WITH THE COMPREHENSIVE PLAN OF THE CITY
11.	PLAN FOR RELOCATION ASSISTANCE

- 12. COST BENEFIT ANALYSIS
- 13. DOES NOT INCLUDE GAMBLING ESTABLISHMENT
- 14. REPORTS TO DED
- 15. HISTORICAL LAND USE

IV. FINANCING PLAN

- 1. ELIGIBLE REDEVELOPMENT PROJECT COSTS
- 2. ANTICIPATED SOURCES OF FUNDS TO PAY REDEVELOPMENT PROJECT COSTS
- 3. TIF NOTE FUNDING
- 4. EVIDENCE OF COMMITMENT TO FINANCE PROJECT COSTS

CHEMICAL BUILDING

**TIF REDEVELOPMENT PLAN
APPENDICES**

- 1. LEGAL DESCRIPTION AND MAP OF THE REDEVELOPMENT AREA
- 2. ANTICIPATED SOURCES AND USES OF FUNDS
- 3. ANALYSIS OF CONDITIONS REPRESENTING A BLIGHTED AREA FOR THE CHEMICAL BUILDING REDEVELOPMENT AREA
- 4. ANTICIPATED REDEVELOPMENT PROJECT SCHEDULE
- 5. CURRENT AND HISTORICAL INFORMATION CONCERNING THE EQUALIZED ASSESSED VALUE WITHIN THE REDEVELOPMENT AREA
- 6. DEVELOPER’S AFFIDAVIT
- 7. EVIDENCE OF COMMITMENT TO FINANCE PROJECT COSTS
- 8. GENERAL LAND USES TO APPLY

I. INTRODUCTION

The following is a plan prepared for redevelopment of certain real property in the City of St. Louis (the “City”) consisting of one parcel in City Block 181 located at 777 Olive Street (the “Redevelopment Area” or “Area”). The Area currently contains one deteriorated and mostly vacant commercial/office building (the “Building”). A legal description and map of the Redevelopment Area are attached hereto as **Appendix 1** and incorporated herein by this reference.

The Redevelopment Area qualifies as a blighted area under Missouri’s Real Property Tax Increment Allocation Redevelopment Act, Section 99.800-99.865 of the Revised Statutes of Missouri (2000) (the “TIF Act”). This Redevelopment Plan contemplates the complete redevelopment of the Area into residential and commercial uses (the “Redevelopment Project” or “Project”).

This Redevelopment Plan proposes that the City initially authorize and issue one or more Tax Increment Financing Notes (“TIF Notes”) in an amount up to Four Million Seven Hundred Thousand and No/100 Dollars (\$4,700,000.00) plus issuance costs to fund a portion of the costs of the Redevelopment Project. The TIF Notes issued shall be reimbursed solely from the revenue stream of Payments In Lieu of Taxes (“PILOTS”) and Economic Activity Taxes (“EATS”) generated by the Project over a twenty-three year period. One hundred percent of PILOTS within the Redevelopment Area and fifty percent of EATS will be allocated to retire the TIF Notes. The City may issue TIF Note(s) or other TIF obligations to the developer of the Project (“Developer”) or a third party to evidence the City’s obligation to reimburse the Developer for a portion of the costs of the Redevelopment Project. Such TIF Note(s) will be paid solely from revenues on deposit in the Chemical Building Special Allocation Fund, in accordance with and pursuant to the TIF Act. Upon receipt by the City of a written request by Developer and evidence that the Developer has met certain criteria agreed upon by the City and Developer in a Redevelopment Agreement, the City shall cause one of its agencies to immediately proceed to issue tax increment financing bonds (“TIF Bonds”) to repay the TIF Note. A Community Improvement District (CID) already exists that covers the Area. This CID, the Chemical Building Community Improvement District (the “CID”), will have the “back half” of its revenues pledged to the TIF Notes.

II. OVERVIEW OF TAX INCREMENT FINANCING

In order to promote the redevelopment of a declining area or to induce new activity in an area that has been lacking in growth and development, the State of Missouri has provided statutory tools to counties and municipalities to assist private and initiate public, investment. One such tool is the TIF Act.

The TIF Act allows cities and counties to (1) identify and designate redevelopment areas that qualify as Blighted Areas,

Conservation Areas, or Economic Development Areas as each are defined in the TIF Act; (2) adopt a redevelopment plan that designates the redevelopment area and states the objectives to be attained and the program to be undertaken; (3) approve a redevelopment project(s) for implementation of the redevelopment plan; and (4) utilize the tools set forth in the TIF Act to assist in reducing or eliminating those conditions that cause the area to qualify as a redevelopment area. Generally, the TIF Act allows municipalities to foster economic and physical improvements in a redevelopment or project area and to enhance the tax base of all taxing districts that levy taxes in such area. Within redevelopment areas, municipalities may use the power of eminent domain to provide necessary property acquisition for the implementation of a redevelopment plan and redevelopment project.

The concept of tax increment financing is outlined as follows: implementation of a redevelopment project within the redevelopment area will produce increased real estate assessments attributable to the redevelopment within the area. The area then generates PILOTS on the increased assessed value of the improved property. The project also generates new EATS resulting from operations within the redevelopment or project area. The TIF Act authorizes the capture of certain PILOTS and EATS in the redevelopment or project area over and above such levels within that area in the year prior to the approval of the redevelopment project. New development is made possible within the redevelopment area through the municipality's use of incremental revenues to finance certain costs of developing or redeveloping the area.

The municipality segregates these incremental revenues into a special account, the "special allocation fund," during the period of time in which the incremental revenues are dedicated to the purposes identified in the redevelopment plan. The municipality is further authorized to pledge additional net new revenues from the project to the purposes identified in the redevelopment plan. All taxing districts that levy taxes on property within the redevelopment or project area continue to receive tax revenues based upon property values which existed prior to the adoption of ordinances establishing the redevelopment or project area. Taxing districts also benefit from the increase in certain other taxes resulting from the increased economic activity in the redevelopment or project area. These taxes resulting from development of the redevelopment project are not deposited in the special allocation fund pursuant to the provisions of the TIF Act.

III. REDEVELOPMENT PLAN INCLUDING NECESSARY FINDINGS

1. Legal Description of the Redevelopment Area

A legal description and map of the Redevelopment Area are included herein as **Appendix 1**.

The Area includes the property located at Chemical Building Avenue.

2. Redevelopment Plan Objectives

The City of St. Louis has established the following objectives for the Chemical Building TIF Redevelopment Plan. These objectives are consistent with those purposes outlined in the TIF Act, as amended:

- To reduce or eliminate the conditions that cause the Redevelopment Area to be a "blighted area" as defined by Section 99.805(1) of the TIF Act and as described in this Redevelopment Plan;
- To enhance the public health, safety, and welfare of the community by curing blighting conditions and encouraging other improvements necessary for insuring the Area's stability and existing and future redevelopment consistent with this Redevelopment Plan;
- To enhance the tax base by inducing development of the Redevelopment Area to its highest and best use, benefitting taxing districts and encouraging private investment in surrounding areas;
- To promote the health, safety, order, convenience, prosperity and the general welfare, as well as efficiency and economy in the process of development;
- To further objectives outlined in the City of St. Louis Strategic Land Use Plan and the Downtown Development Action Plan;
- To increase property values of the Area and surrounding areas; and
- To stimulate construction and permanent employment opportunities and increased demand for services for the Area and surrounding areas.

3. Redevelopment Project

To satisfy the above objectives, the Redevelopment Project consists of:

- Commercial Use Rehabilitation of all or a portion of the Building in the Area into commercial space together with related improvements.
- Residential Use Rehabilitation of all or a portion of the Building in the Area into residential space together with related improvements.

The Redevelopment Project is generalized to leave room for design creativity and owner specifications as needed, so that the Developer can respond to prospective occupant's needs as well as market conditions as redevelopment of the Redevelopment Project progresses.

It is expected that the Redevelopment Project will capitalize on existing successful redevelopment efforts in Downtown, and, in so doing, will enhance the perception of the City's Central Business District, which is one of the most visible and prominent parts of the City. By stabilizing the CBD, which is the functional economic center of the City and region, the Redevelopment Project will enhance the perception of the City to both visitors and City residents and employees. The Project will complement the rehabilitation of the historic Post Office Building and the proposed Arcade development across the street from the Chemical Building. In addition, it is expected that the Project will encourage an increase in other redevelopment efforts in the vicinity of the Redevelopment Area.

The total estimated Redevelopment Project Costs for the Redevelopment Project at this time equal approximately \$32,856,000, excluding developer fees, as set forth in greater detail in **Appendix 2**. It should be noted that the costs set forth in **Appendix 2** are estimated based on the knowledge of the Redevelopment Project at this time and that the actual redevelopment cost items for implementing the Redevelopment Project may vary depending on market conditions and other factors.

4. General Land Uses to Apply

The general land uses proposed for the Area are residential and commercial uses. A map profiling the general land uses to apply is attached hereto as **Appendix 8** and incorporated herein by this reference.

5. Redevelopment Schedule and Estimated Dates of Completion

It is estimated that implementation of the Redevelopment Project will be completed within thirty-six (36) months from the execution of a redevelopment agreement between the City and the Developer of this Redevelopment Project as contemplated herein. This date is merely an estimate, and such implementation may be accelerated or delayed as market or site conditions dictate. The estimated date for retirement of obligations incurred to finance the Redevelopment Project shall not be more than twenty-three (23) years from approval of the Redevelopment Project. The anticipated Redevelopment Program schedule for the TIF Project is included herein as **Appendix 4**.

6. Recent Equalized Assessed Value of Parcels within the Redevelopment Area

The current Equalized Assessed Value of all property in the Redevelopment Area is attached as **Appendix 5**. These values are established and will be confirmed by the Assessor of the City of St. Louis. **Appendix 5** also includes historical information concerning the Equalized Assessed Value of the Redevelopment Area.

7. Estimated Equalized Assessed Value after Redevelopment

The total estimated Equalized Assessed Value of all property subject to PILOTS in the Redevelopment Area after redevelopment and completion of the Redevelopment Project Area is approximately \$ 4,958,730 (2011).

8. Acquisition

The use of eminent domain is not contemplated within the Area to complete the Redevelopment Project.

9. Blighted Area

As described in greater detail in the *Analysis of Conditions Representing a Blighted Area for the Chemical Building Redevelopment Area* attached hereto as **Appendix 3** and incorporated herein by this reference, the Redevelopment Area as a whole is a blighted area, and has not been subject to growth and development through investment by private enterprise and will not reasonably be expected to be developed without the adoption of tax increment financing. The Developer has executed an affidavit attesting to the existence of these conditions, which affidavit is included herein as **Appendix 6**.

The cost of redevelopment precludes private enterprise from developing the Redevelopment Area to its highest and best use without public assistance. The cost of curing the existing conditions of blight and rehabilitation of improvements as contemplated in this Redevelopment Plan is not economically viable if fully borne by the Developer.

10. Conforms with the Comprehensive Plan of the City

The Redevelopment Plan conforms to the development of the City as set forth in the "Strategic Land Use Plan" (2005) and the Downtown Development Action Plan (1999).

11. Plan for Relocation Assistance

To the extent relocation of existing businesses becomes necessary, this Redevelopment Plan adopts the City St. Louis Relocation Policy (Ordinance No. 62481) as the relocation policy for this Redevelopment Plan.

12. Cost Benefit Analysis

A cost benefit analysis showing the fiscal impact of the Project on each taxing district impacted by this Redevelopment Plan and sufficient information to determine the financial feasibility of the Project is on file with the St. Louis Development Corporation, 1015 Locust Street, Suite 1200, St. Louis, MO 63101.

If the TIF Redevelopment Project is completed, then each of the taxing districts will continue to receive all of the tax revenues currently received from the Redevelopment Area. Additionally, they will benefit from the additional real and personal property taxes and economic activity taxes which will be paid and not contributed to the TIF. The TIF Act allows for the collection of only 50% of the EATS for payment of project costs. The other 50% are distributed to the appropriate taxing authorities.

13. Does Not Include Gambling Establishment

The Redevelopment Plan does not include the initial development or redevelopment of any gambling establishment.

14. Reports to DED

As required by the TIF Act, the City shall report to the Department of Economic Development regarding the Redevelopment Area.

15. Historical Land Use of Property within the Redevelopment Area

The Chemical Building, located at 715-777 Olive Street, was built in 1896 by Chicago Architect Henry Ives Cobb. Cobb used the Chicago-style oriold office windows and red terra cotta and cast iron decorative finishes. The 1903 annex was designed closely after Cobb's original by the St. Louis firm Mauren, Russell and Garden. The Building has been used for commercial and office space since its construction. In 1982 it was added to the National Register of Historic Places.

IV. FINANCING PLAN

1. Eligible Redevelopment Project Costs

The TIF Act provides for the use of tax increment revenues generated by a designated redevelopment area to pay all reasonable or necessary costs incurred, estimated to be incurred, or incidental to a redevelopment plan or redevelopment project within a designated TIF redevelopment area. A municipality may pledge all or any part of the funds in and to be deposited in the special allocation fund established for a redevelopment project area to the payment of redevelopment project costs and obligations within the redevelopment area, including the retention of funds for the payment of future redevelopment costs.

The estimated Redevelopment Project Costs to be incurred in connection with the TIF Project are approximately \$32,856,000, excluding developer fees, and are set forth in **Appendix 2**. More specifically, the TIF Act allows the City and/or its designated developer(s) to incur redevelopment costs associated with implementation of an approved Redevelopment Plan and approved Redevelopment Project. These costs include all reasonable or necessary costs incurred, and any costs incidental to a Redevelopment Project. Thus, this Redevelopment Plan anticipates that a portion of the sources of funds used to pay the Project Costs will come from the TIF revenues; such Project Costs, in accordance with the TIF Act, may include, but are not limited to:

- Costs of studies, surveys, plans and specifications;
- Professional service costs including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services;
- Property assembly costs including, but not limited to, acquisition of land and other real or personal property rights, or interests therein;
- Costs of rehabilitation, reconstruction, or repair or remodeling of existing buildings and fixtures and costs of construction of new structures as permitted by the TIF Act;
- Costs of construction of public works or improvements;
- Financing costs including, but not limited to, all necessary and incidental expenses related to the issuance of obligations, and which may include the payment of interest on any obligation issued under the provisions of this Redevelopment Plan accruing during the estimated period of construction of any Redevelopment Project for which such obligations are issued and for not more than eighteen months thereafter, and including reasonable reserves related thereto; and
- All or a portion of a taxing district's capital costs resulting from the Redevelopment Project necessarily incurred or to be incurred in furtherance of the objectives of the Redevelopment Plan and Project, to the extent the City, by written agreement, accepts and approves such costs.

The costs shown on **Appendix 2** represent the total approximate costs of the project regardless of the source of funding.

This table does not include all custom finishes over and above Developer-supplied finishes, which are unknown at this time. Typical plan implementation and financing costs are based on the experience of the Developer. It should be noted that these costs are based on the knowledge of the Project at this time and that the actual redevelopment cost items for implementing the Redevelopment Plan and the Redevelopment Project may vary from these estimates.

The following table illustrates the anticipated categories costs that will be funded in part by TIF, assuming the funding of up to \$4,700,000 in Redevelopment Project Costs.

CATEGORY	
	Acquisition Costs
	Demolition Costs (includes, but is not limited to, demolition of existing buildings and structures or parts thereof).
	Site Preparation and Improvements Costs (includes, but is not limited to, site work, street and sidewalk improvements, utility work, resetting of curbs, landscaping and lighting in the right of way).
	Financing Costs (includes, but is not limited to, loan fees, construction period interest, disbursing fees, construction monitoring and inspection fees, lender’s legal fees, loan appraisals, flood certificates, title, recording, disbursing costs, tax credit investor fees and any and all other costs incurred by the Developer in connection with obtaining financing for and a tax credit investor in the Redevelopment Project).
	Environmental Testing, Remediation and/or Abatement Costs (includes, but is not limited to, the testing for and removal and disposal of toxic or hazardous substances or materials).
	Professional Service Costs (includes, but is not limited to, architectural, engineering, surveying, legal, marketing, advertising, financial, planning, or special services).
	TIF Costs & Issuance Costs incurred by the Developer.
	Rehabilitation, renovation or reconstruction of existing buildings and structures and construction of common improvements to the Redevelopment Area and construction of new structures as permitted by the TIF Act.
\$4,700,000	TOTAL

It is not the intent of **Appendix 2**, the table provided above, or this Redevelopment Plan to restrict the City or the Developer to the cost amounts, categories or allocations as outlined. During the life of the Redevelopment Area, Plan, and Project, other costs may be incurred or adjustments may be made within and among the line items specified in **Appendix 2** and additional categories may be added to the extent allowed by the TIF Act, if necessary and reasonable to accomplish the program objectives of the Redevelopment Plan.

2. Anticipated Sources of Funding to Pay Redevelopment Project Costs

There are seven (7) principal sources of potential funds that are anticipated to be used to pay the costs of implementation of the Redevelopment Plan and the Redevelopment Project previously described. These sources are:

- Federal Historic Tax Credits;
- State Historic Tax Credits;
- State Brownfield Tax Credits;
- Owner equity;
- Private financing;
- CID sales tax, which will be pledged to the TIF;
- Funds available through the issuance of TIF notes, bonds, loans, or other certificates of indebtedness (herein collectively referred to as “TIF Note or other financial obligations”).

The anticipated type and term of the sources of funds are set forth in **Appendix 2**. It is not the intent of **Appendix 2** or this Redevelopment Plan to restrict the City or the Developer to the sources or source amounts as outlined. During the life of the Redevelopment Agreement, Plan, and Project, other sources may be found or adjustments may be made within or in addition to the sources specified in **Appendix 2**.

3. TIF Note Funding

This Redevelopment Plan proposes that the City initially authorize and issue one or more Tax Increment Financing Notes (“TIF Note”) in an amount up to Four Million Seven Hundred Thousand and No/100 Dollars (\$4,700,000.00) plus issuance costs to fund a portion of the Redevelopment Project Costs associated with completion of the Redevelopment Project, with a term of retirement for all such issues not more than 23 years. The TIF Notes or other financial obligations will be issued only to finance the Redevelopment Project and Redevelopment Project Costs as outlined in **Appendix 2**, which are eligible costs as specified in Section 99.805(11) of the TIF Act, including any costs of issuing the TIF Notes or other financial obligations.

The Notes may be issued in one or more series and may include notes, temporary notes, or other financial obligations to be redeemed by TIF Notes upon completion of the Redevelopment Project. In addition, these Notes or other financial obligations may be privately placed. It is the City’s intent to pay for the principal and interest on these Notes or other financial obligations, in any year, solely with money legally available for such purpose within the Chemical Building Special Allocation Fund.

The Chemical Building Special Allocation Fund will contain at least two accounts as provided for and in accordance with the TIF Act:

1. The “**PILOTS Account**” will contain all payments in lieu of taxes derived from all taxable lots, blocks, tracts, and parcels of real property (or any interest therein) within the Redevelopment Area as contemplated by this Redevelopment Plan and in accordance with the TIF Act; and
2. The “**Economic Activity Taxes (“EATS”) Account**” will contain fifty percent (50%) of the total funds from taxes imposed by the City which are generated by the operations and activities within the Redevelopment Area, excluding licenses, fees or special assessments, and excluding personal property taxes and payments to the PILOTS Account, in accordance with the TIF Act.

Funds on deposit in the PILOTS Account and EATS Account will be pledged to the payment of the Redevelopment Project Costs. Such payment obligations shall not constitute debts or liabilities of the City, the State of Missouri, or any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction and neither the City nor the State of Missouri shall be liable thereon except from the PILOTS Account, and, to the extent appropriated by the City on an annual basis, the EATS Account, from funds derived from other taxes deposited into the Special Allocation Fund.

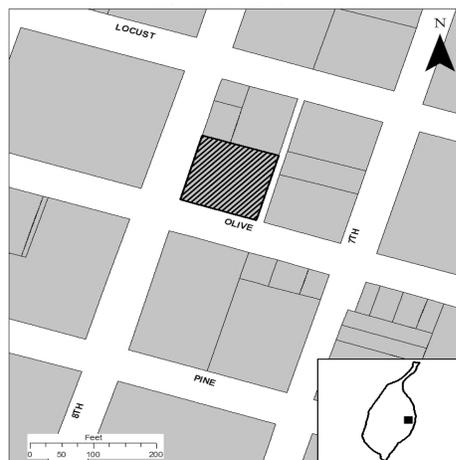
4. *Evidence of Commitment to Finance Redevelopment Project Costs*

Appendix 7 contains a preliminary commitment letter providing evidence of a commitment to provide financing of Redevelopment Project Costs associated with the Redevelopment Project.

**APPENDIX 1
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
LEGAL DESCRIPTION AND MAP OF REDEVELOPMENT AREA**

A Lot in block 181 of the City of St. Louis, fronting 114.15 feet on the East line of Eighth Street by a depth Eastwardly of 127.62 feet to an alley; bounded North in part by a private alley and in part by property now or formerly of Security Trust Company and South by the North line of Olive Street.

CHEMICAL BUILDING REDEVELOPMENT AREA



 Redevelopment Area

**APPENDIX 2
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
ANTICIPATED SOURCES AND USES OF FUNDS**

**APPENDIX 2
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
ANTICIPATED SOURCES AND USES OF FUNDS**

USES OF FUNDS		
Description	Project Costs	
GRND + FLRS 2-4 MEP + Other Hard Costs	\$	2,494,282
FLRS 6-8 MEP + Other Hard Costs	\$	2,131,551
FLRS 9-17 MEP + Other Hard Costs	\$	6,613,409
Floors 6-8 Finish	\$	1,462,675
Floors 9-17 Finish	\$	2,969,673
Subtotal Construction Cost	\$	15,671,590
Demo & Remediation	\$	1,420,000
Lobby and Display Buildout	\$	165,000
GC General Conditions @ 7. % Hard Cost	\$	284,000
GC Fee @ 4% Hard Cost	\$	916,000
Project Bonding @ 1.75%	\$	297,760
TI Buildout Office Space	\$	450,000
TI Buildout Retail Space	\$	150,020
Subtotal Other Hard Costs	\$	3,682,780
	\$	19,354,370
Construction Cont/Escalation	\$	2,418,936
TOTAL HARD COSTS	\$	21,773,306
Architects/ Engineering Fee	\$	370,560
Optional Unit Finish Costs @ \$6k/Unit	\$	315,000
Architect Reimbursable	\$	50,000
Owner Consultants	\$	228,500
	\$	-
Subtotal Design & Mgmt.	\$	964,060
Other Fees and Admin Costs	\$	88,400
Tenant Relocation	\$	72,650
Construction Prep Costs	\$	69,200
Subtotal Fees	\$	230,250
New Mkt. Tax Credit Set-up Costs	\$	-
Legal and Audit Services	\$	132,600
Commercial Leasing	\$	-
Project Insurance	\$	169,131
Misc. Soft Costs	\$	150,000
Building Taxes, Utilities and Maintenance	\$	141,000
Marketing	\$	240,000
Construction Travel & Administration	\$	50,000
Subtotal Other Soft Costs	\$	882,731
TOTAL SOFT COSTS	\$	2,077,041
SUBTOTAL	\$	23,850,347
Construction Management	\$	200,000
TOTAL PROJECT HARD & SOFT COST	\$	24,050,347
Building Purchase Price+Seller Participation	\$	6,525,000
Broker Fee	\$	-
Other Closing Costs	\$	84,415
TOTAL LAND/BUILDING COSTS	\$	6,609,415
INTEREST & FINANCE COSTS	\$	2,195,871
TOTAL PROJECT BUDGET	\$	32,855,633
SOURCES OF FUNDS		
Description	Amount	
Federal Historic Tax Credit Equity	\$	1,225,377
State Historic Tax Credit Proceeds	\$	6,195,818
State Brownfield Tax Credit Proceeds	\$	1,235,400
Tax Increment Financing	\$	4,700,000
Construction Financing (Debt/Equity)	\$	19,499,037
TOTAL SOURCES	\$	32,855,633

**APPENDIX 3
ANALYSIS OF CONDITIONS REPRESENTING A BLIGHTED AREA FOR THE
CHEMICAL BUILDING REDEVELOPMENT AREA**

**ANALYSIS OF CONDITIONS REPRESENTING
A BLIGHTED AREA**

**for the
CHEMICAL BUILDING
TIF REDEVELOPMENT AREA**

**CHEMICAL BUILDING
TIF REDEVELOPMENT PLAN**

August 29, 2008

**City of St. Louis, Missouri
Tax Increment Financing Commission**

TIF ELIGIBILITY

The Chemical Building Redevelopment Area (the “Redevelopment Area” or “Area”) established in the Chemical Building Redevelopment Plan (the “TIF Redevelopment Plan”) is a blighted area based on the fact that it exhibits the factors set forth in Section 99.805(1) of the Revised Statutes of Missouri (the “TIF Act”).

As defined, a “blighted area” is:

An area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use.

Blighting factors and conditions present in the Redevelopment Area include:

- 1) Deterioration of Site Improvements:
 - a. Building exteriors and interiors;
 - b. Systems and components.
- 2) Unsanitary and unsafe conditions resulting from:
 - a. Refuse;
 - b. Potentially unstable structural elements;
- 3) Existence of Conditions which Endanger Lives or Property by Fire or Other Causes:
 - a. Limited safety systems;
 - b. Deteriorating physical components.
- 4) Menace to the Public Health, Safety, Morals or Welfare
- 5) Economic or Social Liability:
 - a. Deferred maintenance and lack of investment; b. Uncompetitive position.

The factors listed above will persist and continue to decline until the comprehensive redevelopment of the Area is undertaken.

A map illustrating the boundaries of the area is attached hereto as Exhibit 1, along with photographs of conditions in the Area attached hereto as Exhibit 2.

DATA COLLECTION METHODS

This study has been designed and conducted to comply with the specific requirements of Section 99.805 (1) RSMo. The study and the requisite field work were performed in August, 2008. Observations and conclusions are based upon on-site inspections of the Redevelopment Area and familiarity with the local market.

In determining whether the proposed Redevelopment Area meets the eligibility requirements for Tax Increment Financing per the

TIF Act, a number of sources of information were utilized; including, but not limited to, the following:

- A. Survey of the condition and use of the Redevelopment Area;
- B. Public documents and records relating to the history and/or condition of the Area; and
- C. Analysis of existing uses.

OVERVIEW OF THE REDEVELOPMENT AREA

The Redevelopment Area consists of one building (“Building”) on one parcel in City Block 2206 as shown on Appendix 1 to the TIF Redevelopment Plan.

DISCUSSION OF BLIGHT IN THE REDEVELOPMENT AREA

1) Deterioration of Site Improvements:

In general, deterioration refers to any physical deficiencies or disrepair in buildings or site improvements requiring treatment or repair. Deterioration may be evident in basically sound buildings containing minor defects, such as a lack of painting, loose or missing roof tiles, floor or ceiling plates, or holes and cracks over limited areas. Deterioration that is not easily curable, however, and that cannot be accomplished in the course of normal maintenance, includes buildings with defects in the primary and secondary building components. Primary building components include the foundation, exterior walls, floors, roofs, wiring, plumbing, etc. Secondary building components include the doors, windows, frames, fire escapes, gutters, downspouts, fascia materials, etc.

The Building suffers from deterioration of some exterior and interior building components. The exterior suffers from deteriorated windows and masonry work throughout the façade that will require complete replacement and/or extensive tuckpointing. The majority of windows are boarded and will require complete replacement. The majority of the interior spaces of the Building are deteriorated.

Several important building components are outmoded and insufficient for their intended use, including heating, plumbing, electric systems, and fire suppression systems. All components will likely need rehabilitation or replacing. Wiring fixtures are exposed in places, and loose wires hang from the ceiling.

The Building suffers deteriorated conditions to both primary and secondary building components. These deficiencies cannot be corrected through normal maintenance but require either rehabilitation and renovation, or replacement in order to be brought to a marketable physical state.

2) Unsanitary or Unsafe Conditions:

In addition to the general physical deterioration stated above, the Area contains unsanitary or unsafe conditions.

The outdated mechanical and utilities infrastructure in the Area is unsafe, especially with respect to electrical and fire prevention systems. The existence of piles of refuse and abandoned equipment inside and outside the Building is clearly detrimental to the use of the space as well as a fire hazard. The underutilization of the Building has attracted illegal activity in its alleyway and gang-related graffiti or “tagging.” Due to the windows being boarded and the entrances being temporarily braced and secured, there is evidence of several break-in attempts and of vandalism. All of these conditions are unsafe for people and property.

3) Existence of Conditions which Endanger Lives or Property by Fire or Other Causes:

Endangerment by fire and other causes is typically due to the presence of structures below minimum code standards. Such code standards include building, property maintenance, fire, environmental or other governmental codes applicable to a particular property. The principal purpose of such codes is to require buildings to be constructed and maintained so that they will have the capacity to support the type of occupancy, and necessary fire and similar hazard protection, or to establish the minimum standards essential for safe and sanitary use, occupation, and/or habitation.

The deteriorating condition of the Area has resulted in structural conditions that are unsafe and which present a danger to property and personal safety due to fire or other causes. The first floor is severely deteriorated and the interior has been partially demolished and poses a danger. The presence of piles of refuse in the Building further constitutes a fire hazard.

4) Menace to the Public Health, Safety, Morals, or Welfare:

As discussed above, the Redevelopment Area exhibits many factors that constitute a menace to the public health, safety, morals, or welfare in its present condition and use. The deteriorating, unsanitary, and unsafe building conditions described above represent a menace to the public health and safety; the economic liability of the deteriorated structure also represents a menace to the public welfare.

5) Economic or Social Liability

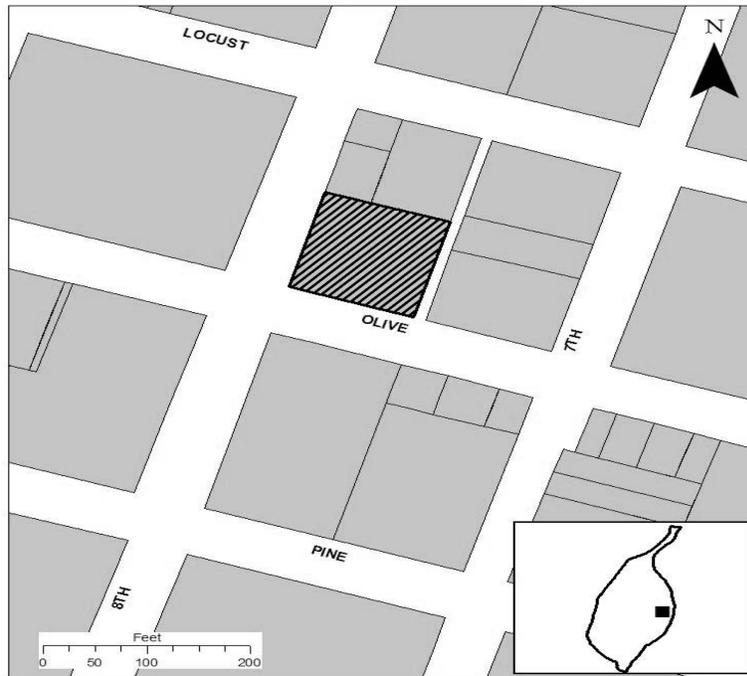
Due to the predominance of blighting factors discussed above, the Area in its current condition is a liability to the social welfare and economic independence of the City. As noted above, the Area suffers from neglect and a lack of investment. These conditions have fostered a state of economic obsolescence as the property is currently unmarketable because of its condition, and will further become an economic burden to the City. Deterioration and subsequent obsolescence of the Area has contributed to the lack of physical maintenance and underutilization of the Area. This has led to vandalism of the property and other gang-related activity occurring in or around the Area. Unfortunately, the Building in its current condition is, without rehabilitation, at risk of falling into complete and prolonged vacancy and potentially fostering the delinquency that plagues other vacant buildings. The presence of a deteriorating and vastly underutilized structure in the CBD detracts from the public perception of the City. This situation is a social liability to the Area as well as properties adjacent to the Building.

The Area in its current condition hampers the economic vitality and independence of the City by failing to generate tax revenue and discouraging reinvestment in, or maintenance of, the Building. The Area's physical condition, combined with the underutilization of the Building, diminishes its potential to generate property and economic activity tax revenues for the City up to its full potential. Without the comprehensive redevelopment of the Area, its physical condition will continue to deteriorate and its economic efficiency will continue to decline, eventually leaving the building vacant and unmarketable and a continued social and economic liability.

The physical condition of and resulting lack of reinvestment in the Area have resulted in economic underutilization. The economic underutilization of the property contributes to the eligibility of the Redevelopment Area. The comprehensive redevelopment of the Area will foster much needed economic activity and contribute to the growth of the City as well as remedying the blighted conditions therein.

Exhibit 1
Chemical Building TIF Redevelopment Area
Blight Analysis

Exhibit 1
Chemical Building TIF Redevelopment Area
Blight Analysis



 Predominantly blighted

Exhibit 2: Photographs of Blighted Conditions



View of the Building from Olive Street



View of the Building from the Old Post Office Building



View from rear alleyway showing boarded entrance and deteriorated masonry



Front entrance boarded with evidence of attempted break-ins



Severely deteriorated conditions on first floor



Vacant and deteriorated former office space



View from Building facing northeast



View from Building facing southeast



Deteriorated north side stairwell



Deteriorated office space with piles of refuse



View of north side of Building; note missing and boarded up windows and damaged façade



Boarded and damaged garden level entrance



Example of gang-related graffiti or “tagging” on Building



Rear view of the Building from the alleyway



Boarded and missing windows on east side of Building



View from Olive Street facing West

**APPENDIX 4
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
ANTICIPATED REDEVELOPMENT PROJECT SCHEDULE**

First TIF Commission Meeting ((\$5,000 Application fee due)	8/13/2008
Submit Redevelopment Plan to TIF Commission (at least 45 days prior to public hearing)	8/29/2008
Mailing of Notice of TIF Commission Public Hearing to Taxing Districts (not less than 45 days prior to hearing) (RSMo. 99.830.3)	8/29/2008
First Publication of Notice of TIF Commission Public Hearing (not more than 30 days prior to hearing) (RSMo. 99.830.1)	9/16/2008
Written Notice to Property Owners (not less than 10 days prior to public hearing) (RSMo. 99.830.3)	10/1/2008
Second Publication of Notice of TIF Commission Public Hearing (not more than 10 days prior to public hearing) (RSMo. 99.830.1)	10/6/2008
Public Hearing by TIF Commission (RSMo. '99.825)	10/15/2008
TIF Commission Recommendation to Board of Aldermen (within 90 days of TIF Public Hearing) (RSMo. 99.820.3)	10/15/2008
TIF Ordinances Introduced adopting plan, approving project, establishing district, establishing special allocation fund, approving redevelopment agreement and authorizing issuance of TIF Notes (between 14 and 90 days after hearing) (RSMo. 99.820.1[1])	10/31/2008
HUDZ Committee Hearing on TIF Ordinances	11/5/2008
Second Reading of TIF Ordinances	11/7/2008
Perfection of Board Bill(s)	11/14/2008
Board of Estimate & Apportionment	11/12/2008
Third Reading and Final Passage of TIF Ordinances	11/14/2008
Mayor Signs Bills	11/26/2008
Full Construction Commences	3/26/2009
Construction Complete	12/26/2011

**APPENDIX 5
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
CURRENT AND HISTORICAL INFORMATION CONCERNING THE EQUALIZED ASSESSED VALUE
OF REDEVELOPMENT AREA**

<u>Street Address</u>	<u>Tax ID</u>	<u>Equalized Assessed Value (2008)</u>
777 Olive Street	01810000871	\$ 226,610

HISTORY OF ASSESSED VALUE

TERMS	AV	% CHANGE
2003	\$354,900	-
2004	\$354,900	0%
2005	\$354,900	0%
2006	\$354,900	0%

2007	\$386,600	8.93%
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*Values consist of the entire property listed above per City of St. Louis Assessor's Office.

Information concerning Economic Activity Taxes (EATs) is non-public and thus, not available at this time.

APPENDIX 6
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
DEVELOPER'S AFFIDAVIT

APPENDIX 6
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
DEVELOPER'S AFFIDAVIT

STATE OF MISSOURI)
)
CITY OF ST. LOUIS)

AFFIDAVIT

I, the undersigned, am over the age of 18 years and have personal knowledge of matters stated herein.

The undersigned swears, affirms and certifies the following to be true to induce the approval of Tax Increment Financing for the Redevelopment Area described in the Chemical Building Tax Increment Financing Redevelopment Plan, initially dated August 29, 2008 (the "Redevelopment Plan").

1. I am a duly authorized representative of the Chemical Building Acquisition, LLC (the "Developer") and am authorized by the Developer to attest to the matters set forth herein.

2. I am familiar with the Redevelopment Area described in the Redevelopment Plan. In my opinion, based on the factors set forth in the Redevelopment Plan, the Redevelopment Area, on the whole, qualifies as a "blighted area" as defined in Section 99.805(3) of the Missouri Revised Statutes (2000), and has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing.

And Further Affiant Sayeth Not.

Chemical Building Acquisition, LLC
a Missouri limited liability company

JULIE KORANTENG
Notary Public - Notary Seal
State of Missouri
County of Boone
My Commission Expires September 11, 2009
Commission #05766856

By: JEFF ROSS
Name: JEFF ROSS
Title: MEMBER

Subscribe and sworn to before me this 12 day of August 2008.

Julie Koranteng
Notary Public

My Commission Expires: Sept. 11, 2009

APPENDIX 7
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
EVIDENCE OF COMMITMENT TO FINANCE PROJECT COSTS

APPENDIX 7
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
EVIDENCE OF COMMITMENT TO FINANCE PROJECT COSTS



August 22, 2008

Re: Proposed Chemical Building TIF project, St. Louis, Missouri

Dear Jeff:

The purpose of this letter is to evidence Centrue Bank's preliminary commitment to provide financing for your proposed project involving the redevelopment of certain real property and rehabilitation of existing structures into residential, commercial, and office uses in the Chemical Building TIF in the City of St. Louis, Missouri (the "Project"). This correspondence is intended as a preliminary expression of the Bank's interest in this Project, and the potential funding of this Project is subject to several contingencies, including the review of customary due diligence, the issuance of the necessary tax increment financing by the City of St. Louis, and the review and approval of the Bank's Loan Committee, acting in its sole subjective discretion.

As we have discussed, financing of the Project would not be feasible without the assistance of tax increment financing. Therefore, please be advised that we are excited to provide financing for the Project should the City of St. Louis issue the necessary tax increment financing.

Should you have any questions, please do not hesitate to call.

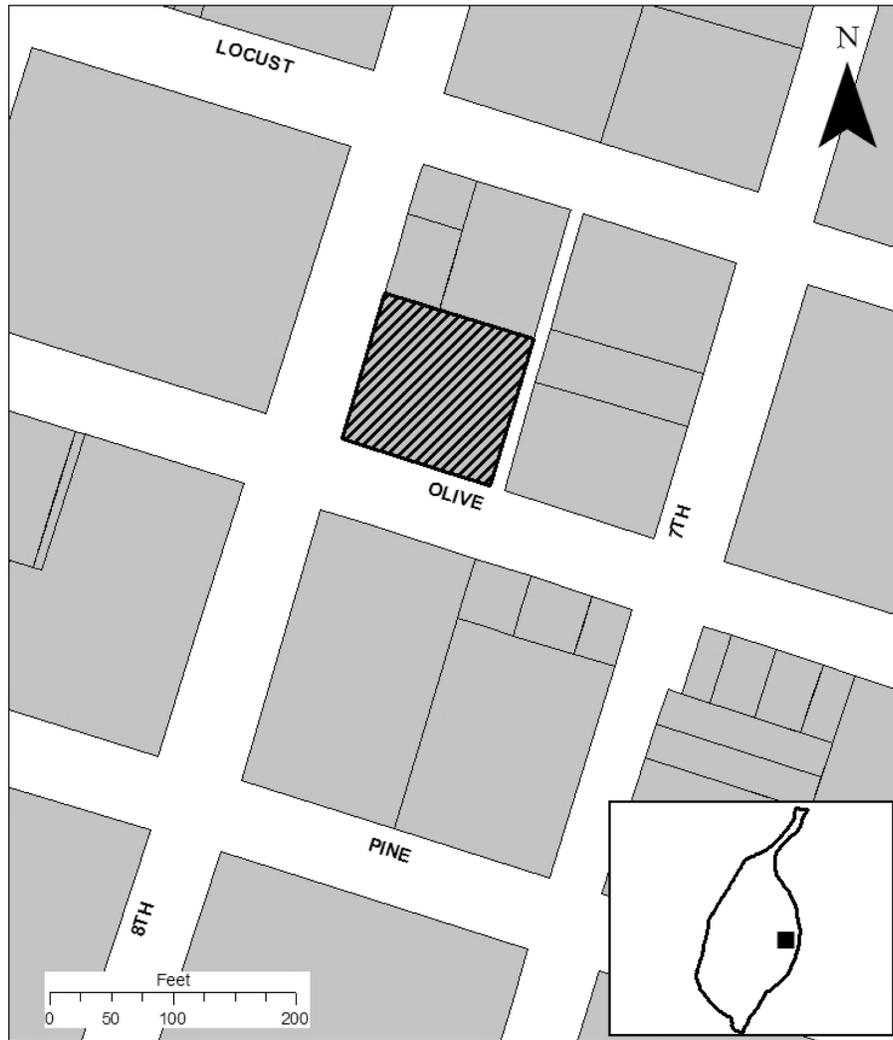
Sincerely,

A handwritten signature in cursive script that reads "Brian M. Davies".

Brian M. Davies
Senior Vice President

**APPENDIX 8
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
GENERAL LAND USES TO APPLY**

**APPENDIX 8
CHEMICAL BUILDING TIF REDEVELOPMENT PLAN
GENERAL LAND USES TO APPLY**



 Mix of Commercial and Residential Uses

ST_LOUIS-3072157-1

Approved: November 24, 2008

ORDINANCE #68182
Board Bill No. 259

AN ORDINANCE AFFIRMING ADOPTION OF A REDEVELOPMENT PLAN, REDEVELOPMENT AREA, AND REDEVELOPMENT PROJECT; AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT BETWEEN THE CITY OF ST. LOUIS AND CROSSLAND CAPITAL PARTNERS, INC.; PRESCRIBING THE FORM AND DETAILS OF SAID AGREEMENT; DESIGNATING CROSSLAND CAPITAL PARTNERS, INC. AS DEVELOPER OF THE REDEVELOPMENT AREA; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AUTHORIZING OTHER RELATED ACTIONS IN CONNECTION WITH THE REDEVELOPMENT OF CERTAIN PROPERTY WITHIN THE REDEVELOPMENT AREA; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS, the City of St. Louis, Missouri (the "City"), is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, on December 20, 1991, pursuant to Ordinance No. 62477, the Board of Aldermen of the City created the Tax Increment Financing Commission of the City of St. Louis, Missouri (the "TIF Commission"); and

WHEREAS, on October 15, 2008, after all proper notice was given, the TIF Commission held a public hearing in conformance with the TIF Act (hereinafter defined) and received comments from all interested persons and taxing districts affected by the Redevelopment Plan and the redevelopment project described therein; and

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri (2000), as amended (the "Act" or "TIF Act"), and after due consideration of the TIF Commission's recommendations, the Board of Aldermen of the City of St. Louis, Missouri adopted Ordinance No. _____ [Board Bill No. ____] on _____, 2008, which Ordinance: (i) adopted and approved a redevelopment plan entitled the "Chemical Building TIF Redevelopment Plan" dated August 29, 2008 (the "Redevelopment Plan") (ii) designated the Chemical Building Redevelopment Area (as described in the Redevelopment Plan) as a "redevelopment area" as that term is defined in the TIF Act (the "Redevelopment Area"), (iii) adopted and approved the Redevelopment Project described in the Redevelopment Plan, (iv) adopted tax increment allocation financing within the Redevelopment Area, (v) established the City of St. Louis, Missouri "Chemical Building Special Allocation Fund," and (vi) made certain findings with respect thereto, all as set forth in such Ordinance and in accordance with the requirements of the Act; and

WHEREAS, the Redevelopment Plan proposes to redevelop the Redevelopment Area by the acquisition of the property within the Redevelopment Area, the preparation of the site, and the development of new commercial and residential uses, as set forth in the Redevelopment Plan (the "Redevelopment Project," or "TIF Project"); and

WHEREAS, pursuant to Ordinance No. _____ [Board Bill No. ____], the Board of Aldermen has determined that completion of the Redevelopment Project is of economic significance to the City, will serve to benefit the general welfare, qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a "blighted area" as provided in the TIF Act, and further, that redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan is not financially feasible without the adoption of tax increment allocation financing and would not otherwise be completed; and

WHEREAS, the Redevelopment Area qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a "blighted area" as provided in the TIF Act and as set forth herein; and

WHEREAS, it is necessary and desirable and in the best interest of the City to enter into an agreement with Crossland Capital Partners, Inc., a Missouri corporation (the "Developer"), in order that Developer may complete the Redevelopment Project which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City of St. Louis, providing for a plan for the optimal growth of the City of St. Louis, encouragement of a sense of community identity, safety and civic pride and the elimination of impediments to development in the City of St. Louis; and

WHEREAS, pursuant to the provisions of the TIF Act, the City is authorized to enter into a redevelopment agreement with Crossland Capital Partners, Inc., a Missouri corporation, as Developer, setting forth the respective rights and obligations of the City and Developer with regard to the redevelopment of the Redevelopment Area (the "Redevelopment Agreement"); and

WHEREAS, the Board of Aldermen hereby determines that the terms of the Redevelopment Agreement attached as **Exhibit A** hereto and incorporated herein by reference are acceptable and that the execution, delivery and performance by the City and the Developer of their respective obligations under the Redevelopment Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the TIF Act and the Redevelopment Plan.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Board of Aldermen hereby ratifies and confirms its approval of the Redevelopment Plan, Redevelopment Area, and Redevelopment Project. The Board of Aldermen further finds and determines that it is necessary and desirable to enter into the Redevelopment Agreement with Crossland Capital Partners, Inc., as Developer of the Redevelopment Area,

in order to implement the Redevelopment Project and to enable the Developer to carry out its proposal for completion of the Redevelopment Project.

SECTION TWO. The Board of Aldermen finds and determines that the assistance of tax increment financing is necessary and desirable in order to implement the Redevelopment Project and to enable Crossland Capital Partners, Inc. as Developer of the Redevelopment Area, to carry out its proposal for completion of the Redevelopment Project.

SECTION THREE. The Board of Aldermen hereby approves, and the Mayor and Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the Redevelopment Agreement by and between the City and the Developer attached hereto as **Exhibit A**, and the City Register is hereby authorized and directed to attest to the Redevelopment Agreement and to affix the seal of the City thereto. The Redevelopment Agreement shall be in substantially the form attached, with such changes therein as shall be approved by said Mayor and Comptroller executing the same and as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized.

SECTION FOUR. The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such action by the Mayor and the Comptroller or their designated representatives.

SECTION FIVE. The Mayor and the Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such changes by the Mayor and the Comptroller or their designated representatives.

SECTION SIX. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

SECTION SEVEN. After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over his veto; *provided that* if, within ninety (90) days after the effective date of this Ordinance, the Developer has not (i) executed a redevelopment agreement pertaining to the Redevelopment Project and (ii) paid all fees due to the City in accordance with the terms of the redevelopment agreement, the provisions of this Ordinance shall be deemed null and void and of no effect and all rights conferred by this Ordinance on Developer, shall terminate, *provided further*, however, that prior to any such termination the Developer may seek an extension of time in which to execute the Redevelopment Agreement, which extension may be granted in the sole discretion of the Board of Estimate and Apportionment of the City of St. Louis.

**Exhibit A
CHEMICAL BUILDING TIF REDEVELOPMENT AGREEMENT**

**REDEVELOPMENT AGREEMENT
Between the
CITY OF ST. LOUIS, MISSOURI
And
CROSSLAND CAPITAL PARTNERS, INC.**

**Dated as of
_____, 2008**

CHEMICAL BUILDING REDEVELOPMENT PROJECT

ARTICLE I. DEFINITIONS

1.1 Definitions 2

ARTICLE II. ACCEPTANCE OF PROPOSAL

2.1 Developer Designation 7
2.2 Developer to Advance Costs 7

ARTICLE III. CONSTRUCTION OF REDEVELOPMENT PROJECT

3.1 Acquisition of Property 8
3.2 Condemnation 9
3.3 Relocation 9
3.4 Developer to Construct the Work 9
3.5 Governmental Approvals 9
3.6 Construction Plans; Changes 9
3.7 Certificate of Commencement of Construction 10
3.8 Certificate of Substantial Completion 10

ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS

4.1 City's Obligation to Reimburse Developer 11
4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer's Right to Substitute 11
4.3 Cost Savings and Excess Profits 11
4.4 City's Obligations Limited to Special Allocation Fund and Bond Proceeds 13

ARTICLE V. TIF OBLIGATIONS

5.1 Conditions Precedent to the Issuance of TIF Notes 13
5.2 Issuance of TIF Notes 13
5.3 Issuance of TIF Bonds 14
5.4 Application of TIF Bond Proceeds 16
5.5 Cooperation in the Issuance of TIF Obligations 16
5.6 Subordinate Notes 16
5.7 City to Select Underwriter and Financial Advisor; Term and Interest Rate 17

ARTICLE VI. SPECIAL ALLOCATION FUND; COLLECTION AND USE OF TIF REVENUES

6.1 Creation of Special Allocation Fund 17
6.2 Certification of Base for PILOTS and EATS 17
6.3 Application of Available Revenues 18
6.4 Cooperation in Determining TIF Revenues 18
6.5 Obligation to Report TIF Revenues 18
6.6 Notice to City of Transfer 18

ARTICLE VII. GENERAL PROVISIONS

7.1 Developer's Right of Termination 19
7.2 City's Right of Termination 19
7.3 Successors and Assigns.19
7.4 Remedies 20
7.5 Force Majeure 21
7.6 Notices 21
7.7 Conflict of Interest 22
7.8 Damage or Destruction of Redevelopment Project 23
7.9 Inspection 23
7.10 Choice of Law 23
7.11 Entire Agreement; Amendment 23
7.12 Counterparts 24
7.13 Severability 24
7.14 Representatives Not Personally Liable 24
7.15 Attorney's Fees 24
7.16 Actions Contesting the Validity and Enforceability of the Redevelopment Plan 24
7.17 Release and Indemnification 24
7.18 Survival 26
7.19 Maintenance of the Property 26
7.20 Non-Discrimination 26
7.21 Fair Employment 26

ARTICLE VIII. REPRESENTATIONS OF THE PARTIES

8.1 Representations of the City 27
8.2 Representations of the Developer 27

EXHIBITS

EXHIBIT A Legal Description of the Redevelopment Area

EXHIBIT B	Reimbursable Redevelopment Project Costs
EXHIBIT C	Form of Certificate of Commencement of Construction
EXHIBIT D	Form of Certificate of Reimbursable Redevelopment Project Costs
EXHIBIT E	Form of Certificate of Substantial Completion
EXHIBIT F	Equal Opportunity and Nondiscrimination Guidelines
EXHIBIT G	Form of MBE/WBE Subcontractor's List
EXHIBIT H	Form of MBE/WBE Utilization Statement

REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (this "*Agreement*") is made and entered into as of this _____ day of _____, 2008, by and between the **CITY OF ST. LOUIS, MISSOURI** (the "*City*"), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and **CROSSLAND CAPITAL PARTNERS, INC.** (the "*Developer*"), a corporation duly incorporated and existing under the laws of the State of Missouri. (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in Article I of this Agreement.)

RECITALS

A. Pursuant to Ordinance No. 62477, adopted and approved on December 20, 1991, the Board of Aldermen duly formed the Tax Increment Financing Commission of the City of St. Louis, Missouri (the "TIF Commission"), in accordance with the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri, (2000) (the "TIF Act"), and empowered the TIF Commission to transact business and exercise its powers as authorized by the TIF Act.

B. The City published a notice on _____, 2008 and _____, 2008 in the St. Louis Daily Record, a newspaper of general circulation within the City, soliciting proposals for the redevelopment of the Redevelopment Area (as hereinafter defined), and made such requests for proposals available for potential developers of the Redevelopment Area.

C. An affiliate of Developer submitted its development proposal dated July 30, 2008 (as may be amended from time to time, the "Redevelopment Proposal") to the TIF Commission for redevelopment of the Redevelopment Area.

D. On October 15, 2008, following a public hearing held on that date, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Redevelopment Plan titled "Chemical Building TIF Redevelopment Plan" dated August 29, 2008, (the "Redevelopment Plan"), the Redevelopment Project described in the Redevelopment Plan (the "Redevelopment Project") and the Redevelopment Area, and recommending that the Board of Aldermen: (1) adopt tax increment financing with respect to the Redevelopment Area by passage of an ordinance complying with the terms of Section 99.845 of the Act; and (2) adopt an ordinance in the form required by the Act (a) approving the Redevelopment Plan, (b) approving and designating the Redevelopment Area as a "redevelopment area" as provided in the Act, (c) approving the Redevelopment Project, and (d) creating the Chemical Building Special Allocation Fund.

E. On _____, 2008, after due consideration of the TIF Commission's recommendations, the Mayor signed Ordinance No. _____ [Board Bill No. ____] designating the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, approving the Redevelopment Plan, approving the Redevelopment Project described in the Redevelopment Plan, adopting tax increment allocation financing within the Redevelopment Area and establishing the Special Allocation Fund.

F. On _____, the Mayor signed Ordinance No. _____ [Board Bill No. ____] affirming adoption of the Redevelopment Area, Redevelopment Plan and Redevelopment Project, designating the Developer as developer of the Redevelopment Area, and authorizing the City to enter into this Agreement with Developer.

G. On _____, the Mayor signed Ordinance No. _____ [Board Bill No. ____] authorizing the issuance of TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project and pledging TIF Revenues to the payment of the TIF Notes.

H. The Board of Aldermen hereby determines that the acceptance of the Redevelopment Proposal and the fulfillment generally of this Agreement are in the best interests of the City, and the health, safety and welfare of its residents, and in accord with the public purposes specified in the Redevelopment Plan.

I. Pursuant to provisions of the TIF Act and Ordinance Nos. _____, _____ and _____ [Board Bill Nos. _____, _____ and _____], the City is authorized to enter into this Agreement, to issue TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project, and to pledge TIF Revenues to the payment of the TIF Notes.

AGREEMENT

Now, therefore, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**ARTICLE I.
DEFINITIONS**

1.1 Definitions. As used in this Agreement, the following words and terms shall have the following meanings:

“Acquisition Costs” means the consideration paid by Developer or its Related Entity to a third party to acquire fee simple interest in the Property.

“Act” or “TIF Act” means the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri (2000), as amended.

“Agreement” means this Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented in writing by the parties hereto.

“Approved Investors” means (a) the Developer or a Related Entity, (b) an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business company or enterprise with total assets in excess of \$50,000,000.

“Approving Ordinance” means Ordinance No. _____ [Board Bill No. ____] designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, adopting tax increment allocation financing within the Redevelopment Area, and establishing the Special Allocation Fund.

“Authority” means The Industrial Development Authority of The City of St. Louis, Missouri, a public corporation duly organized under Chapter 349 of the Revised Statutes of Missouri.

“Authorizing Ordinance” means Ordinance No. _____ [Board Bill No. ____] affirming approval and adoption of the Redevelopment Plan, Redevelopment Project, and designation of the Redevelopment Area, designating Developer as the developer of the Redevelopment Area, and authorizing the City to enter into a Redevelopment Agreement with Developer.

“Available Revenues” means all monies on deposit from time to time (including investment earnings thereon) in (a) the PILOTS Account, (b) subject to annual appropriation, the EATS Account that have been appropriated to the repayment of the TIF Notes, and (c) the CID Revenues Account; excluding (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

“Board of Aldermen” means the Board of Aldermen of the City.

“Bond Counsel” means Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Bond Proceeds” means the gross cash proceeds from the sale of TIF Bonds before payment of Issuance Costs, together with any interest earned thereon.

“Certificate of Commencement of Construction” means a document substantially in the form of **Exhibit C**, attached hereto and incorporated by reference herein, delivered by Developer to the City in accordance with this Agreement and evidencing commencement of construction of the Redevelopment Project.

“Certificate of Reimbursable Redevelopment Project Costs” means a document substantially in the form of **Exhibit D**, attached hereto and incorporated herein by reference, provided by the Developer to the City in accordance with this Agreement and evidencing Reimbursable Redevelopment Project Costs incurred by the Developer.

“Certificate of Substantial Completion” means a document substantially in the form of **Exhibit E**, attached hereto and incorporated herein by reference, issued by the Developer to the City in accordance with this Agreement and evidencing the Developer’s satisfaction of all obligations and covenants to construct the Redevelopment Project in accordance with the Redevelopment Plan and this Agreement.

“CID” or “Community Improvement District” means the Chemical Building Community Improvement District, as established by the City pursuant to Ordinance No. 67668.

“CID Act” means the Missouri Community Improvement District Act, Sections 67.1401 – 67.1571, Revised Statutes of Missouri (2000), as amended.

“CID Project” means (i) remediation of blighting conditions within the Redevelopment Area, (ii) public improvements completed within the Redevelopment Area, or (iii) any community improvement project approved by the CID for an area benefitting the Redevelopment Area and in accordance with the CID Act and constituting a portion of the Work.

“CID Revenues” means all revenues actually collected, pursuant to this Agreement and the CID Act, from the imposition

of the CID Sales Tax. CID Revenues shall not include (a) 1% of the gross revenues generated by the CID Sales Tax, which the State of Missouri Department of Revenue (or other collection agency) may retain for the cost of collecting the CID Sales Tax, (b) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer, (c) any sum received by the CID which is the subject of a suit or other claim communicated to the CID which suit or claim challenges the collection of such sum, (d) any amounts retained by the CID to pay reasonable operating or administrative expenses, and (e) that certain fifty percent of incremental revenues generated by the CID Sales Tax which is captured through the adoption of tax increment financing within the Redevelopment Area and which are deemed statutory economic activity taxes as contemplated by the TIF Act.

“*CID Sales Tax*” means the sales and use tax levied by the CID on the receipts from the sale at retail of all eligible tangible personal property or taxable services at retail within its boundaries pursuant to the CID Act in the amount not to exceed one percent (1%), and as further discussed in **Article III** of this Agreement.

“*City*” means the City of St. Louis, Missouri, a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri.

“*City Clerk*” means the Register of the City.

“*Comptroller*” means the Comptroller of the City.

“*Construction Plans*” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections, submitted by the Developer and approved by the City in accordance with applicable law.

“*Developer*” means Crossland Capital Partners, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

“*Disclosure Counsel*” means Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to offerings of municipal securities duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“*Economic Activity Taxes*” or “*EATs*” shall have the meaning ascribed to such term in Section 99.805(4) of the TIF Act.

“*Governmental Approvals*” means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, or other subdivision, zoning, or similar approvals required for the implementation of the Redevelopment Project related to the Redevelopment Area and consistent with the Redevelopment Plan and this Agreement.

“*Issuance Costs*” means the amount set forth in **Section 2.2(v)** of this Agreement incurred by the City in furtherance of the issuance of TIF Notes plus all costs reasonably incurred by the City in furtherance of the issuance of TIF Obligations, including without limitation the fees and expenses of financial advisors and consultants, the City’s attorneys (including issuer’s counsel, Disclosure Counsel and Bond Counsel), the City’s administrative fees and expenses (including fees and costs of its planning consultants and the SLDC), underwriters’ discounts and fees, the costs of printing any TIF Obligations and any official statements relating thereto, the costs of credit enhancement, if any, capitalized interest, debt service reserves and the fees of any rating agency rating any TIF Obligations.

“*MBE/WBE Compliance Officer*” means the City’s Assistant Airport Director, Department of MBE/WBE Certification and Compliance.

“*MBE/WBE Subcontractor’s List*” means the form of City of St. Louis MBE/WBE Subcontractor’s List published by the Board of Public Service of the City, such form being attached hereto as **Exhibit G** and incorporated herein by this reference.

“*MBE/WBE Utilization Statement*” means the form of City of St. Louis MBE/WBE Utilization Statement prepared by the Board of Public Service of the City published by the Board of Public Service of the City, such form being attached hereto as **Exhibit H** and incorporated herein by this reference.

“*Maturity Date*” means the date that is twenty three (23) years after the effective date of the Approving Ordinance.

“*Note Ordinance*” means Ordinance No. _____ [Board Bill No. ____] adopted by the Board of Aldermen and signed by the Mayor authorizing the TIF Note(s) and TIF Obligations, any trust indenture relating thereto, and all related proceedings.

“*Original Purchaser*” the Developer, a Related Entity, the Project Lender or a Qualified Institutional Buyer; provided, however, that any such Related Entity or Project Lender shall also qualify as an Approved Investor and shall be designated in writing by the developer as the Original Purchaser.

“*Payments in Lieu of Taxes*” or “*PILOTs*” shall have the meaning ascribed to such term in Section 99.805(10) of the TIF Act.

“*Post Completion Funding Source*” means each of the following sources:

- (i) Tax Credits:

(a) the total value of the proceeds from the sale of any transferable tax credits approved for the Redevelopment Project, based on the amounts approved by the tax credit issuing authority and the purchase prices for such credits set forth in any tax credit purchase agreement; if, pursuant to such purchase agreement, any portion of the proceeds is to be paid subsequent to the date upon which the statement required by Section 4.3 is submitted, the present value of such portion shall be calculated by the City using a time period determined by the City to be reasonable and a 7% present value rate; if no tax credit purchase agreement has been executed, then the total value of such proceeds shall be calculated as 87% of the amount approved by the tax credit issuing authority.

(b) the equity and/or loan proceeds available from investor members or partners in the Redevelopment Project who will be entitled to receive any non-transferable tax credits approved for the Redevelopment Project, per the ownership documentation for the Redevelopment Project property; if, pursuant to such purchase agreement, any portion of the proceeds is to be paid subsequent to the date upon which the statement required by Section 4.3 is submitted, the present value of such portion shall be calculated by the City using a time period determined by the City to be reasonable and a 7% present value rate; provided, that, if the Project has been approved for a New Markets Tax Credit investment by a New Markets Tax Credit allocate, but has not yet entered into any agreement pursuant to which such loan or equity proceeds shall be made available, then the value of such proceeds shall be 25% of the face value of the approved New Markets Tax Credit investment.

The Developer shall substantiate the amount of any tax credits approved for the Redevelopment Project and the proceeds or equity related thereto by providing to the City documentation from accountants, tax credit authorities and tax credit purchasers or investors.

(ii) Sales Proceeds:

(a) all net sales proceeds actually derived from the sale of any portion of the Redevelopment Project, which net sales proceeds shall be documented by copies of the seller's closing statements for such sales, and (b) if, at the time of the submittal required pursuant to Section 4.3 of this Agreement, there remain units or portions of the Redevelopment Project which are being marketed and listed as for-sale but are unsold, ninety percent (90%) of the average sale price for all sold units or portions, taking into account the size, location and amenities associated with such sold units as compared to the unsold units or portion, discounted by (a) a percentage equal to the average sales commissions paid to unrelated third parties and applied to the discounted listing price; and (b) closing costs for sold units (stated as the average amount of closing costs for such sold units).

(iii) TIF Financing: the maximum amount of TIF financing available to the Redevelopment Project, as such amount is set forth in Section 4.1 hereof; and

(iv) Value of Income-Producing Space:

if the Redevelopment Project includes any leased space or space intended for lease (such space being the "Income-Producing Space"), the value of such Income Producing Space, which value shall be calculated by dividing the Stabilized Net Operating Income (as defined below) of such Income Producing Space by a capitalization rate of nine and one-half percent (9.5%). In addition to the other materials required to be submitted by subparagraph 4.3 hereof, Developer shall submit a 10-year operating proforma, including income and expense projections, for all Income-Producing Space in the Redevelopment Project, together with copies of all leases, letters of intent, and operating expense documentation, if any, related to such Income-Producing Space.

"*Project Fund*" means the Project Fund created in the Note Ordinance.

"*Project Lender*" means a commercial bank, savings bank, savings and loan association, credit union or other financial institution that has loaned funds to the Developer to be used for construction of the Redevelopment Project and has secured such loan with a mortgage or security interest in the Redevelopment Project.

"*Property*" means the real property (including without limitation all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) and existing improvements in the Redevelopment Area as set forth in the Redevelopment Plan.

"*Qualified Institutional Buyer*" means a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933.

"*Redevelopment Area*" means the real property described in **Exhibit A**, attached hereto and incorporated herein by reference.

"*Redevelopment Plan*" means the plan titled "Chemical Building TIF Redevelopment Plan" dated August 29, 2008, as such plan may from time to time be amended in accordance with the TIF Act.

"*Redevelopment Project*" means the Redevelopment Project identified by the Redevelopment Plan, consisting of the rehabilitation and redevelopment of the building in the Redevelopment Area into commercial space on a minimum of two floors and residential or commercial space on any remaining floors, as further set forth in the Redevelopment Plan.

“*Redevelopment Project Costs*” shall have the meaning ascribed to such term in Section 99.805(14) of the TIF Act.

“*Redevelopment Proposal*” means the document on file with the City and incorporated herein by reference, titled “Chemical Building TIF Application,” dated July 30, 2008 and submitted by an affiliate of the Developer to the City.

“*Reimbursable Redevelopment Project Costs*” means those Redevelopment Project Costs as described in Exhibit B, attached hereto and incorporated herein by reference, for which the Developer is eligible for reimbursement in accordance with this Agreement.

“*Related Entity*” means any party or entity related to the Developer by one of the relationships described in Section 267(b), Section 707(b)(1)(A) or Section 707(b)(1)(B) of the Internal Revenue Code of 1986, as amended.

“*Relocation Plan*” means the relocation plan of the City for the Redevelopment Area as contained in the Redevelopment Plan, which relocation plan was adopted on December 20, 1991, pursuant to Ordinance No. 62481.

“*SLDC*” means the St. Louis Development Corporation, a non-profit corporation organized and existing under the laws of the State of Missouri.

“*Special Allocation Fund*” means the Chemical Building Special Allocation Fund, created by the Approving Ordinance in accordance with the TIF Act, and including the accounts and sub-accounts for the Redevelopment Project into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement.

“*Stabilized Net Operating Income*” shall be calculated as follows:

- For any portion of the Income Producing Space which has actually been leased, the annualized rental income from such space, less annualized actual and/or reasonable operating expenses as determined by the City (excluding debt service);

PLUS

- For any portion of the Income Producing Space which is available for lease but has not been leased, the result of the following equation:
 - the amount of net leaseable square footage multiplied by the average annual rent per square foot of the Income Producing Space which has been actually leased, taking into account the size, location and amenities associated with such space not yet leased as compared to the space leased (provided, that if no such space has been actually leased, the lease rate(s) used shall be the lease rate(s) specified by the Developer in the TIF;

LESS

- (ii) the amount of net leaseable square footage multiplied by the average annualized actual and/or reasonable operating expenses as determined by the City (excluding debt service) per square foot of the Income Producing Space .

The City shall incorporate a 7% vacancy rate for all Income-Producing Space.

“*TIF Bonds*” means tax increment revenue bonds, if any, authorized and issued by the Authority in accordance with the TIF Act and this Agreement.

“*TIF Commission*” means the Tax Increment Financing Commission of the City of St. Louis, Missouri.

“*TIF Notes*” means one or more series of tax increment revenue notes issued by the City pursuant to and subject to this Agreement and the Note Ordinance to evidence the City’s limited obligation to repay Reimbursable Redevelopment Project Costs incurred by the Developer on behalf of the City in accordance with the TIF Act and this Agreement.

“*TIF Obligations*” means TIF Bonds, TIF Notes or other obligations, singly or in series, issued by the City or the Authority, as the case may be, pursuant to the TIF Act and in accordance with this Agreement.

“*TIF Revenues*” means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Redevelopment Area over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, (2) subject to annual appropriation by the Board of Aldermen, fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2007 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of

Missouri, as amended, and licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, all as provided in Section 99.845 of the TIF Act, and (3) CID Revenues. Notwithstanding the foregoing, TIF Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

“*Trustee*” means the trustee or fiscal agent for any issue of TIF Obligations.

“*Verified Total Project Costs*” means the sum total of all reasonable or necessary costs incurred, and any such costs incidental to the Redevelopment Project or the Work, including, but not limited to, all Acquisition Costs, Redevelopment Project Costs and Reimbursable Redevelopment Project Costs, as limited by the provisions of Section 4.3 hereof.

“*Work*” means all work necessary to prepare the Redevelopment Area and to construct or cause the construction and completion of the Redevelopment Project described in the Redevelopment Proposal, Redevelopment Plan and this Agreement, including but not limited to: (1) property acquisition; (2) site preparation and environmental remediation; (3) rehabilitation, renovation or reconstruction of existing structures or construction of new improvements within the Redevelopment Area; (4) construction, reconstruction, renovation and/or rehabilitation of related infrastructure and/or public improvements, including without limitation surrounding roads, sidewalks, sewer, water, electrical, parking and other utilities; (5) professional services, including, but not limited to, architecture, engineering, surveying, financing, legal, planning and consulting; (6) and all other work described in the Redevelopment Proposal, Redevelopment Plan and this Agreement, or reasonably necessary to effectuate the intent of this Agreement.

ARTICLE II. ACCEPTANCE OF PROPOSAL

2.1 Developer Designation. The City hereby selects the Developer to perform or cause the performance of the Work in accordance with the Redevelopment Plan and this Agreement and all Governmental Approvals. To the extent of any inconsistency among the foregoing, the parties agree that the Redevelopment Plan shall govern.

2.2 Developer to Advance Costs. The Developer agrees to advance all Redevelopment Project Costs as necessary to acquire the Property and to complete the Work, all subject to the Developer’s right to abandon the Redevelopment Project and to terminate this Agreement as set forth in **Section 7.1** of this Agreement. Additionally, and not by way of limitation:

(i) the City acknowledges payment by the Developer of a Five Thousand Dollar and no/100 (\$5,000.00) TIF Application Fee;

(ii) the City acknowledges that, prior to the execution of this Agreement, the Developer paid the sum of Twelve Thousand Six Hundred Eighty-One Dollars and no/100 (\$12,681.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies have been paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(iii) the Developer shall, within ten (10) days after the date of execution of this Agreement, pay the sum of Twelve Thousand Six Hundred Eighty-One Dollars and no/100 (\$12,681.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies shall be paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(iv) the Developer shall pay to the Comptroller an additional amount to reimburse the Comptroller for its actual legal expenses incurred in connection with the review of the Redevelopment Proposal, the review and adoption of the Redevelopment Plan and the negotiation, execution and implementation of the Redevelopment Agreement, which amount shall be paid as follows: (i) all such costs incurred through the date of execution of the Redevelopment Agreement shall be paid within ten (10) days after the execution of the Redevelopment Agreement, and (ii) all such costs incurred after the date of execution of the Redevelopment Agreement and prior to the date upon which the City receives from Developer a Certificate of Reimbursable Redevelopment Project Costs shall be paid concurrently with the initial issuance of the TIF Notes; and

(v) the Developer shall, concurrently with the issuance of any TIF Notes, pay to the City a flat fee to be reasonably determined by the City in its sole discretion at the time of issuance to pay for the City’s Issuance Costs of such TIF Notes; and

(vi) any amounts advanced to the City shall represent Reimbursable Redevelopment Project Costs to be reimbursed exclusively from the proceeds of TIF Obligations as provided in and subject to **Articles IV and V** of this Agreement.

2.3 Community Improvement District.

(a) The City acknowledges that the Developer, at its sole cost and expense, intends to advance all costs necessary to design, develop and construct the CID Project. The City further acknowledges the general economic benefit and the overall value to the community created by the construction of the CID Project. To that end, the City and the Developer agree as follows:

(i) The City and Developer shall use their best efforts and cooperate with each other in good faith in all proceedings relating to the creation and certification of the CID, including the execution and filing of all petitions, consents, approvals, authorizations or other documents required to create and certify the CID.

(ii) The Developer, as the owner of record of all real property located within the Property, shall in good faith cooperate and assist in obtaining approval for and levying of the CID Sales Tax contemplated by the Agreement by voting to approve the CID Sales Tax at an election held in accordance with Section 67.1545 of the CID Act.

(iii) The Developer shall use its best efforts to ensure that every retailer within the Property shall add the CID Sales Tax to the retailer's sales price and when so added such CID Sales Tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price, all as provided for in Section 67.1545 of the CID Act.

(iv) The City and the Developer shall waive the right to file suit to set aside the CID Sales Tax or otherwise question the validity of the proceedings relating thereto.

(b) Subject to any limitation set forth in the CID Act, the Developer shall use its best efforts to cause the CID to enter into an agreement with the City to pledge all CID Revenues generated within the Property that are from time to time on deposit in the CID Revenues Account of the Special Allocation Fund solely to the payment of debt service on the portion of the TIF Obligations related to the CID Project. The CID's obligations under this Section shall be the exclusive responsibility of the CID payable solely out of CID Revenues and shall not constitute a debt or liability of the State of Missouri or any agency or political subdivision of the State. Neither the CID nor the City shall be obligated to pledge any funds other than those specifically pledged to repayment of the TIF Obligations, and any pledge of CID Revenues shall be subject to the limitations on the term of obligations issued by a CID as set forth in the CID Act.

ARTICLE III. CONSTRUCTION OF REDEVELOPMENT PROJECT

3.1 Acquisition of Property. Developer represents that, as of the date of this Agreement, Developer or a Related Entity is the fee owner or owner under contract of the Property. Any additional properties acquired by the Developer for completion of the Work shall be held in the name of the Developer or a Related Entity and shall be subject to the terms, conditions and covenants contained herein and in the Redevelopment Plan immediately upon acquisition.

3.2 Condemnation. As of the date of this Agreement, it is not anticipated that the exercise of the power of eminent domain will be necessary to acquire any portion of the Property in the Redevelopment Area.

3.3 Relocation. The Developer shall identify any Displaced Person (as defined in Ordinance No. 62481 of the City) that is entitled to relocation payments or relocation assistance under the Relocation Plan. The City shall, at the Developer's sole cost and expense, subject to reimbursement as a Reimbursable Redevelopment Project Cost in accordance with **Article IV** of this Agreement, coordinate such relocation payments and relocation assistance in accordance with the Relocation Plan.

3.4 Developer to Construct the Work. The Developer shall commence or cause the commencement of the construction of the Work within three hundred sixty (360) days of the date of this Agreement, which Work shall be constructed in a good and workmanlike manner in accordance with the terms of this Agreement and the Redevelopment Plan. The Developer shall substantially complete or cause the Work to be substantially complete not later than December 31, 2011 absent an event of Force Majeure. In the event of any delay caused by an event of Force Majeure as defined in **Section 7.5** of this Agreement, Developer shall be granted additional time to complete the Work, but under no circumstance shall such time to complete the Work extend beyond December 31, 2012.

The Developer may enter into or cause to be entered into one or more construction contracts to complete the Work. Prior to the commencement of construction of any portion of the Work, the Developer shall obtain or shall require that any of its contractors obtain workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts customary in the industry for similar type projects. The Developer shall require that such insurance be maintained by any of its contractors for the duration of the construction of such portion of the Work. To the extent that laws pertaining to prevailing wage and hour apply to any portion of the Work the Developer agrees to take all actions necessary to apply for the wage and hour determinations and otherwise comply with such laws.

3.5 Governmental Approvals. The City and, at its direction, the SLDC agree to employ reasonable and good faith efforts to cooperate with the Developer and to process and timely consider and respond to all applications for the Governmental Approvals as received, all in accordance with the applicable City ordinances and laws of the State of Missouri.

3.6 Construction Plans; Changes. The Construction Plans shall be prepared by a professional engineer or architect licensed to practice in the State of Missouri and the Construction Plans and all construction practices and procedures with respect to the Work shall be in conformity with all applicable state and local laws, ordinances and regulations. During the progress of the Work, the Developer may make such reasonable changes, including without limitation modification of the construction schedule, subject to the provisions of **Section 3.4**, including but not limited to, dates of commencement and completion (subject to the time limitations set forth in this Agreement), modification of the areas in which the Work is to be performed, relocation, expansion or deletion of items, revisions to the areas and scope of Work, and any and all such other changes as site conditions or orderly development may dictate or as may be necessary or desirable, in the sole determination of the Developer, to enhance the economic

viability of the Redevelopment Project and as may be in furtherance of the general objectives of the Redevelopment Plan; provided that (a) the Developer shall comply with all laws, regulations and ordinances of the City and (b) prior to any material changes, the Developer shall obtain the advance written consent of the SLDC, which consent shall not be unreasonably withheld or delayed. For purposes of this **Section 3.6**, “material changes” shall mean (i) any change that could reasonably be expected to result in a decrease in the aggregate amount of TIF Revenues generated within the Redevelopment Area to an amount less than 90% of the maximum amount of TIF Obligations to be issued hereunder (specifically, \$4,227,000); or (ii) any change that would reduce the final total square footage of commercial space by more than ten percent (10%) of the estimated commercial square footage set forth in that certain Cost-Benefit Analysis for the Chemical Building TIF Redevelopment Plan dated as of August 29, 2008 (as may be amended).

3.7 Certificate of Commencement of Construction. The Developer shall furnish to the SLDC, with a copy to the Comptroller, a Certificate of Commencement of Construction, which certificate shall be submitted for the Redevelopment Project in accordance with the schedule set forth in **Section 3.4** of this Agreement and in the form of **Exhibit C** attached hereto and incorporated herein by reference. The Certificate of Commencement of Construction shall be deemed accepted by the SLDC upon receipt of the same.

3.8 Certificate of Substantial Completion. Promptly after substantial completion of the Work, the Developer shall furnish to the City and the SLDC a Certificate of Substantial Completion. The Mayor or his designee and the SLDC shall, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City and the SLDC unless, within thirty (30) days following delivery of the Certificate of Substantial Completion, the Mayor or his designee or SLDC furnishes the Developer with specific written objections to the status of the Work, describing such objections and the measures required to correct such objections in reasonable detail. In the case where the Mayor or his designee or SLDC, within thirty (30) days following delivery of the Certificate of Substantial Completion provides the Developer with specific written objections to the status of the Work, the Developer shall have such amount of time as is reasonably necessary to address such objections and when addressed shall re-submit the Certificate of Substantial Completion to the Mayor or his designee or the SLDC in accordance with this Section and the thirty (30) day period shall begin anew. Upon acceptance of the Certificate of Substantial Completion by the Mayor or his designee and the SLDC for the Redevelopment Project, or upon the lapse of thirty (30) days after delivery thereof to the Mayor or his designee and the SLDC without any written objections thereto, the Developer may record the Certificate of Substantial Completion with the City’s Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Developer’s agreements and covenants to perform all the Work. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit E**, attached hereto and incorporated by referenced herein.

ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS

4.1 City’s Obligation to Reimburse Developer. Subject to the terms of the Note Ordinance and this Agreement, the City agrees to reimburse Developer for the verified Reimbursable Redevelopment Project Costs in a total amount not to exceed Four Million Two Hundred Twenty-Seven Thousand Dollars (\$4,227,000) plus Issuance Costs to be allocated to the Redevelopment Project.

Subject to the terms of the Note Ordinance and this Agreement, the City agrees to issue TIF Notes to Developer to evidence the City’s obligation to reimburse Developer for verified Reimbursable Redevelopment Project Costs in an amount not to exceed **Four Million Two Hundred Twenty-Seven Thousand Dollars (\$4,227,000), plus Issuance Costs** and interest as provided in **Section 5.2** of this Agreement, subject to the limitations of **Article IV** of this Agreement.

4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer’s Right to Substitute. Nothing in this Agreement shall obligate the City to issue TIF Notes or to reimburse the Developer for any cost that is not incurred pursuant to Section 99.820.1 of the TIF Act or that does not qualify as a “redevelopment project cost” under Section 99.805(14) of the TIF Act. The Developer shall provide to the City (a) itemized invoices, receipts or other information evidencing such costs; and (b) a Certificate of Reimbursable Redevelopment Project Costs constituting certification by the Developer that such cost is eligible for reimbursement under the TIF Act. Within thirty (30) days of the City’s receipt from the Developer of a Certificate of Reimbursable Redevelopment Project Costs, the City shall review and act upon such Certificate of Reimbursable Redevelopment Project Costs. The parties agree that each of the categories of costs set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, shall constitute Reimbursable Redevelopment Project Costs which are eligible for reimbursement in accordance with the TIF Act and this Agreement. The Developer shall be entitled to reimbursement for Redevelopment Project Costs from any of the categories set forth in **Exhibit B** up to the maximum aggregate amount established in **Section 4.1** of this Agreement; provided, that the Developer shall be obligated to advance to the City the full amounts identified in **Section 2.2, clauses (i)-(v)**, of this Agreement. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a “redevelopment project cost” under Section 99.805(14) of the TIF Act, the City shall so notify the Developer in writing within the thirty (30) day period referenced in this **Section 4.2**, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other Redevelopment Project Costs as Reimbursable Redevelopment Project Costs with a supplemental application for payment and the thirty (30) day period shall begin anew. If the City fails to approve or disapprove any Certificate of Reimbursable Redevelopment Project Costs within thirty (30) days after receipt thereof, the Certificate of Reimbursable Redevelopment Project Costs shall be deemed approved. In no event shall CID Revenues be paid in an amount which exceeds the amount of principal and interest payable on that portion of the principal amount of TIF Notes equal to the amount of the CID Project Costs.

4.3 Cost Savings and Excess Profits. Within one hundred eighty (180) days after the submission of the Certificate

of Substantial Completion by Developer in accordance with **Section 3.8** of this Agreement, Developer also shall furnish to the City for the City's review and approval, (a) a statement of Verified Total Project Costs, with evidence of billings and payments for each expenditure, including itemized invoices, receipts, and pay applications or other evidence of payment as appropriate for the type of cost; and (b) a statement of each and every Post Completion Funding Source for the Redevelopment Project.

If the Redevelopment Project includes a for-sale condominium component, the statements required by this Section 4.3 shall not be submitted until a minimum of 80% of the condominium units included in the Redevelopment Project have been sold, and such statements shall be submitted within sixty (60) days following such sale of 80% of such condominium units.

Developer shall not include developer fees, project management, construction management or consultant fees for any service typically performed by the Developer in the Verified Total Project Costs. With respect to any other costs for any services provided by the Developer or any entity related to Developer, the amount of such costs shall not exceed the amount set forth in the Redevelopment Plan for such services, or, if the cost for such service is not explicitly set forth in the Redevelopment Plan as an individual line item, an amount determined by the City as acceptable. Moreover, if any of the owners, officers, principals or members of the construction contractor for the Redevelopment Project are the same as any owner, officer, principal or member of Developer or general partner in the owner of the development, amounts allowed for aggregate contractor fees shall not exceed eighteen percent (18%) of construction costs as provided for in the Missouri Housing Development Commission's 2005 Qualified Allocation Plan for the Low Income Housing Tax Credit Program, and Developer shall include documentation, including detailed invoices and receipts for payment, for each and every item of costs traceable to third parties with no relationship to Developer, in addition to summary pay applications submitted to Developer by the construction contractor. The City shall determine whether particular costs are general requirements and includable in the contractor's fee allowance or are construction costs to which the aggregate contractor's fee allowance shall be applied, using the Cost Certification Guide promulgated by the Missouri Housing Development Commission as a guide for such determinations. The City shall complete its review of the statements and other documentation provided by the Developer pursuant to this Section and shall notify Developer if such documentation is acceptable and complete within forty-five (45) days of receipt by the City. Should the City notify Developer that the documentation submitted by the Developer is not acceptable or is not complete, the City shall specify which items of documentation are missing or unacceptable and the manner in which Developer may remedy such deficiencies, and Developer may make supplemental submissions to address such deficiencies, provided, however, that such supplemental submissions shall not include any materials with respect to costs incurred or other events that have taken place subsequent to the date the original submission was made. If requested by the City, Developer shall also submit an affidavit as to the accuracy of the statements as to the costs, the relationship of any payee to the Developer, the accuracy of the statements as to the amounts and types of tax credits received or other funding sources received, and the veracity of any other aspect of the statements of verified total project costs or Post-Completion Funding Sources. The City shall review any supplemental materials provided by the Developer within forty-five (45) days of receipt and shall notify Developer if such documentation is acceptable and complete within forty-five (45) days of receipt by the City. Developer shall respond to any notification by the City pursuant to this section within sixty (60) days of receipt of such notification. Once the City has issued any such notification, the City shall not be required to make the calculations specified in the following paragraph until the City has received all documentation deemed necessary by the City in order to make such calculations, provided, however, that if Developer fails to respond to any notification within such sixty (60) day period, the City shall have the right to finalize the calculations specified in the following paragraph based on the information and documentation then available to the City and the Developer shall accept the results of such finalized calculations for purposes of the discharge of TIF notes as specified in the following paragraph. Either the City or the Developer may waive or extend the time periods for notification and response set forth herein.

To the extent that, in the City's determination, the sum of Post Completion Funding Sources as identified by the City exceeds the sum of: (x) Verified Total Project Costs, plus (y) four percent (4%) of the Acquisition Costs, plus (z) fifteen percent (15%) of all Verified Total Project Costs other than Acquisition Costs, then Developer hereby agrees that the maximum amount of Reimbursable Redevelopment Project Costs for which the Developer shall be reimbursed by the City as provided for in Section 4.1 of this Agreement and the maximum amount of any TIF Notes which shall be issued by the City in accordance with Section 5.2 of this Agreement shall be reduced by an amount in the aggregate equal to seventy-five percent (75%) of the total amount of such excess, as calculated by the City in accordance herewith. Developer agrees that the City may discharge any TIF Notes already issued at the time of such calculation in an amount in the aggregate equal to seventy-five percent (75%) of the total excess.

4.4 City's Obligations Limited to Special Allocation Fund and Bond Proceeds. Notwithstanding any other term or provision of this Agreement, TIF Notes issued by the City to the Developer for Reimbursable Redevelopment Project Costs are payable only from the Special Allocation Fund and from Bond Proceeds, if any, and from no other source. The City has not pledged its full faith and credit relative to the City's obligation to issue the TIF Obligations or to pay any Reimbursable Redevelopment Project Costs. The TIF Obligations shall be special, limited obligations of the City, and shall not constitute debt to the City within any constitutional or statutory meaning of the word "debt."

ARTICLE V. TIF OBLIGATIONS

5.1 Conditions Precedent to the Issuance of TIF Notes. No TIF Notes shall be issued until such time as the City has (i) accepted a Certificate of Substantial Completion in accordance with the procedures set forth in **Section 3.8** of this Agreement; (ii) approved a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit D**, attached hereto and incorporated herein by reference, in accordance with the procedures set forth in **Section 4.2** of this Agreement; (iii) obtained an opinion of Bond Counsel regarding the taxable nature of the TIF Notes; (iv) received the full payment of all advances required to be paid under **Section 2.2** of this Agreement; and (v) received such other documentation as the City shall reasonably require of Developer in order for the City to obtain an opinion of Bond Counsel as required by this **Section 5.1**.

5.2 Issuance of TIF Notes. The City agrees to issue one or more TIF Notes as provided in this Agreement and the Note Ordinance to reimburse the Developer for Reimbursable Redevelopment Project Costs up to the maximum amount established in **Section 4.1** of this Agreement, subject to the limitations of Article IV of this Agreement. The TIF Notes shall be in the form attached to the Note Ordinance as Exhibit B, provided that if the Note Ordinance is repealed or otherwise amended to amend such form of TIF Note, the TIF Notes shall not be amended for the purposes of this Agreement without the written consent of Developer.

5.2.1 Terms. Each TIF Note shall bear interest at a fixed rate per annum determined on the date that is not less than ten (10) and not more than sixty (60) business days prior to the scheduled closing date for issuance of the TIF Notes (the "Pricing Date") based on the municipal yield curve for general obligation bonds (the "MMD") compiled by Municipal Market Data Line® (or its successors) and published by Thomson Financial, an operating unit of The Thomson Corporation (or its successors) using the MMD yield published as of the Issuance Date for general obligation bonds rated "AAA" that mature in the same year as the TIF Notes, (i) plus four percent (4%) if the interest on such TIF Note, in the opinion of Bond Counsel, is not exempt from Federal income taxation (the "Taxable Rate"), or (ii) plus two percent (2%) if the interest on such TIF Note, in the opinion of Bond Counsel, is exempt from Federal income taxation (the "Tax Exempt Rate"); provided, in no event shall the interest rate on the TIF Notes exceed ten percent (10%) per annum. All TIF Notes shall have a stated maturity of the Maturity Date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The TIF Notes shall bear interest from their registration date or from the most recent Payment Date to which interest has been paid or duly provided for.

5.2.2 Procedures for Issuance of TIF Notes. Within a reasonable period of time not to exceed ninety (90) days of Developer's satisfaction of the conditions of Section 5.1 of this Agreement the City shall issue a TIF Note to an Original Purchaser evidencing reimbursement of Reimbursable Redevelopment Project Costs. Notwithstanding anything contained in this Agreement to the contrary, upon the acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs and the issuance by the City of a TIF Note as provided in this **Section 5.2.2**, the Developer shall be deemed to have advanced funds necessary to purchase such TIF Notes and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Developer in full for such costs from the amounts deemed to be on deposit in the Project Fund from time to time.

5.2.3 Special Mandatory Redemption of TIF Notes. All TIF Notes are subject to special mandatory redemption by the City, in whole at any time or in part on each March 1 and September 1 (each, a "Payment Date") occurring after the acceptance by the City of the Certificate of Substantial Completion at a redemption price equal to 100% of the principal amount being redeemed, together with the accrued interest thereon to the date fixed for redemption.

5.3 Issuance of TIF Bonds.

5.3.1 The City may, in its sole and absolute discretion, issue, cause to be issued, TIF Bonds at any time in an amount sufficient to refund all or a portion of the outstanding TIF Notes.

5.3.2 Upon receipt of a written request by Developer and upon the City's underwriter's recommendation in favor of issuing TIF Bonds and recommendation of the principal amount thereof based on the criteria set forth below, the City shall use its best efforts to cause the Authority to issue TIF Bonds as described in this Section. The aggregate gross cash proceeds from the sale of the TIF Bonds before payment of Issuance Costs, together with any interest accrued thereon ("Bond Proceeds") of such TIF Bonds will be finally determined by the City after receiving the underwriter's recommendation based on the criteria set forth below. The City shall not be obligated to cause the Authority to issue such TIF Bonds unless the underwriter determines that all of the following criteria are satisfied as of the date of issuance of such bonds, unless such criteria are waived by the City's underwriter. Developer shall not have any liability for any costs associated with the issuance of TIF Bonds but shall bear its own costs and expenses, including any attorneys' fees and expenses, that Developer may incur in complying with this Section. Notwithstanding anything in this Section to the contrary, Developer shall be liable for all costs incurred by the City or the Authority in the event the Developer has requested the issuance of bonds and the City's underwriter has determined that such bonds cannot be issued at such time.

5.3.2.1 Criteria for Issuance. The underwriter's recommendation for issuance of TIF Bonds and the principal amount thereof shall be based on the following criteria:

- (i) Acceptance by the City of the Certificate of Substantial Completion;
- (ii) Review of projections of TIF Revenues available for debt service as proposed by an independent qualified consultant. Such projections must show that (A) if all available TIF Revenues were to be applied to the immediate repayment of the TIF Bonds, the TIF Bonds would reasonably be anticipated to be retired within twenty-three (23) years from the effective date of the Approving Ordinance, and (B) based on a maturity date twenty-three (23) years from the effective date of the Approving Ordinance, the TIF Bonds are reasonably likely to achieve debt service coverage ratio reasonably acceptable to the City's underwriter;
- (iii) Developer's documentation of stabilization of the Redevelopment Project for a minimum period of two (2) years after substantial completion as evidenced in a report to the City prepared by a qualified independent consultant to be paid for by the City, which report also sets forth TIF revenue projections for the Redevelopment Project in connection with the issuance of the TIF Bonds;

- (iv) The aggregate net projected debt service on the TIF Bonds (taking into account the principal portion of the TIF Bonds that are issued to establish a reserve fund and to pay Issuance Costs, and including any reserve fund earnings) will be lower than the net average annual debt service on the outstanding TIF Notes, unless the Developer voluntarily elects to defer or forgive principal of and/or interest on the TIF Notes in an amount necessary to make the aggregate net projected debt service on the TIF Bonds lower than the net average annual debt service on the outstanding TIF Notes; and
- (v) The TIF Bonds can be sold at an aggregate net interest cost which is less than the aggregate net interest cost of the TIF Notes to be redeemed.

5.4 Application of TIF Bond Proceeds. Proceeds of any TIF Bonds shall be applied:

5.4.1 To the payment of costs relating to the issuance of the TIF Bonds;

5.4.2 To the payment of outstanding principal of and interest on the TIF Notes to be refunded;

5.4.3 To the payment of capitalized interest on the TIF Bonds; and

5.4.4 To the establishment of a debt service reserve fund for the TIF Bonds in a reasonable amount of the principal amount of TIF Bonds to be issued, as to be determined by the City's underwriter.

5.5 Cooperation in the Issuance of TIF Obligations. Developer covenants to cooperate and take all reasonable actions necessary to assist the City and its Bond Counsel, the Authority, underwriters and financial advisors in the preparation of offering statements, private placement memorandum or other disclosure documents and all other documents necessary to market and sell the TIF Obligations, including disclosure of tenants of the Redevelopment Area and the non-financial terms of the leases between Developer and such tenants. Developer will not be required to disclose to the general public or any investor any proprietary or confidential information, including financial information, pertaining to Developer, but upon the execution of a confidentiality agreement acceptable to Developer, Developer will provide such information to the City's financial advisors, underwriters and their counsel to enable such parties to satisfy their due diligence obligations. Developer shall make such compliance obligation a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement, provided, that Developer shall satisfy this and any other obligation under this Agreement to make any provision a covenant running with the land by recording this Agreement in the Office of the Recorder of Deeds of the City of St. Louis.

5.6 Subordinate Notes.

TIF Notes may be issued in two series, with one series subordinate to TIF Notes of the other series issued hereunder (the "Subordinate Notes"), such that no payment of principal or interest on any such Subordinate Notes may be made while any TIF Notes are outstanding. All such Subordinate Notes shall be payable as to principal and interest according to the terms set forth in **Sections 5.2 and 6.3** of this Agreement.

If the amount of TIF Bonds issued pursuant to this Agreement is insufficient to refund all of the outstanding TIF Notes, the TIF Notes remaining outstanding shall be redeemed by the issuance of Subordinate Notes. Each Subordinate Note shall have the same maturity and have the same outstanding principal amount and the same interest rate as the TIF Note it redeems. All such Subordinate Notes shall be payable as to principal and interest according to the terms set forth in **Sections 5.4 and 6.3** of this Agreement.

5.7 City to Select Underwriter and Financial Advisor; Term and Interest Rate. The City shall have the right to select the designated underwriter (and such financial advisors and consultants as the underwriter and the City deem necessary for the issuance of the TIF Bonds) and underwriter's counsel. The final maturity of the TIF Bonds shall not exceed the maximum term permissible under the TIF Act. The TIF Bonds shall bear interest at such rates, shall be subject to redemption and shall have such terms as the City shall determine in its sole discretion.

ARTICLE VI.

SPECIAL ALLOCATION FUND; COLLECTION AND USE OF TIF REVENUES

6.1 Creation of Special Allocation Fund. The City agrees to cause its Comptroller or other financial officer to maintain the Special Allocation Fund, including a "PILOTs Account," an "EATs Account," and such further accounts or sub-accounts as are required by this Agreement or as the Comptroller may deem appropriate in connection with the administration of the Special Allocation Fund pursuant to this Agreement. Subject to the requirements of the TIF Act and, with respect to Economic Activity Taxes, subject to annual appropriation by the Board of Aldermen, the City will promptly upon receipt thereof deposit all Payments in Lieu of Taxes into the PILOTs Account and all Economic Activity Taxes into the EATs Account.

6.2 Certification of Base for PILOTs and EATs.

6.2.1 Upon the reasonable written request of the City, Developer shall use its best efforts to provide or cause to be provided to the Comptroller or its authorized representative any documents necessary for the City to calculate the base for PILOTs and EATs including, but not limited to: (i) the address and locator number of all parcels of real property located within the Redevelopment Area; and (ii) information related to payment of utility taxes by any businesses, owners

or other occupants of the Redevelopment Area in the calendar year ending December 31, 2007.

6.2.2 Within ninety (90) days after execution of the Redevelopment Agreement, the City shall provide to the Developer (i) a certificate of the City Assessor's calculation of the total initial equalized assessed valuation of the taxable real property within the Redevelopment Area based upon the most recently ascertained equalized assessed valuation of each taxable lot, block, tract, or parcel of real property within the Redevelopment Area; and (ii) a certification of the amount of revenue from taxes, penalties and interest which are imposed by the City and other taxing districts and which are generated by economic activities within the Redevelopment Area for the calendar year ending December 31, 2007, but excluding those personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, taxes levied for the purpose of public transportation, or licenses, fees or special assessments identified as excluded in Section 99.845.3 of the TIF Act.

6.3 Application of Available Revenues.

The City hereby agrees for the term of this Agreement to apply the Available Revenues and any taxes, fees or assessments subsequently enacted and imposed in substitution therefor and allocable to the Special Allocation Fund under the TIF Act or this Agreement to the repayment of TIF Notes issued under Article V of this Agreement as provided in the Note Ordinance and this Agreement.

Upon the payment in full of the principal of and interest on all TIF Notes (or provision has been made for the payment thereof as specified in the Note Ordinance), payment in full of the fees and expenses of the Comptroller and the SLDC, and payment in full of any other amounts required to be paid under the Note Ordinance, all amounts remaining on deposit in the Revenue Fund shall be declared as surplus and distributed in the manner provided in the Act.

If monies available in Special Allocation Fund are insufficient to reimburse the City or the Developer as provided above on any Payment Date, then the unpaid portion shall be carried forward to the next Payment Date, with interest thereon.

The City agrees that it will comply with the Charter of The City of St. Louis, Article XVI, Section 3 for each fiscal year that TIF Obligations are outstanding and the City will request an appropriation of all Available Revenues on deposit in the Special Allocation Fund for application to the payment of the principal of (including, but not limited to, payment of a premium, if any) and interest on the TIF Obligations.

6.4 Cooperation in Determining TIF Revenues. The City and the Developer agree to cooperate and take all reasonable actions necessary to cause the TIF Revenues to be paid into the Special Allocation Fund, including, but not limited to, the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement.

6.5 Obligation to Report TIF Revenues. The Developer shall cause any purchaser or transferee of real property located within the Property, and any lessee or other user of real property located within the Property required to pay TIF Revenues shall use all reasonable efforts to timely fulfill such obligations as are required by **Section 6.4** of this Agreement. So long as any of the TIF Obligations are outstanding, the Developer shall cause such obligations to be covenants running with the land, which covenants shall be enforceable as if such purchaser, transferee, lessee or other user of such real property were originally a party to and bound by this Agreement.

6.6 Notice to City of Transfer. The Developer agrees to notify the City in writing of any sale, transfer or other disposition of the Property or any interest therein as permitted by **Section 7.3.2** of this Agreement at least fifteen (15) days prior to such sale, transfer or other disposition. Said notice shall specify the name and address of the person so acquiring any or all of the Property or any interest therein and shall identify the Property to be sold, transferred or otherwise disposed, whether by voluntary transfer or otherwise. Notwithstanding the foregoing, Developer shall not be required to notify the City of the lease or transfer of a residential unit, commercial unit or parking space in the ordinary course of business except as may be required by **Section 4.3**.

ARTICLE VII. GENERAL PROVISIONS

7.1 Developer's Right of Termination. At any time prior to the delivery of a Certificate of Substantial Completion, the Developer may, by giving written notice to the City, abandon the Redevelopment Project and terminate this Agreement and the Developer's obligations hereunder if the Developer determines, in its sole discretion, that the Redevelopment Project is no longer economically feasible. Upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

7.2 City's Right of Termination. The City may terminate this Agreement if (i) the Developer fails to submit to the MBE/WBE Compliance Officer a copy of Developer's MBE/WBE Subcontractor's List and its MBE/WBE Utilization Statement within three hundred sixty (360) days of the date of this Agreement; provided, however, that termination under this Section 7.2(i) may be waived in the sole discretion of the MBE/WBE Compliance Officer; or (ii) the Developer fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with **Section 3.8** of this Agreement and the schedule set forth in **Section 3.4** of this Agreement. Upon such termination, the City shall have no obligation to issue a TIF Note or to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

7.3 Successors and Assigns.

7.3.1 Binding Effect. This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective heirs, administrators, executors, personal representatives, successors and assigns.

7.3.2 Assignment or Sale. Without limiting the generality of the foregoing, all or any part of the Property or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after redevelopment of the Redevelopment Project, whereupon the party disposing of its interest in the Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such Property so disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement), provided, however, that until substantial completion of the Redevelopment Project, the fee title to the Property shall not be sold, transferred or otherwise disposed of and the rights, duties and obligations of the Developer under this Agreement shall not be assigned in whole or in part without the prior written approval of the City, which approval shall not be unreasonably withheld or delayed upon a reasonable demonstration by the Developer of the proposed transferee's or assignee's experience and financial capability to undertake and complete such portions of the Work and perform the Developer's obligations under this Agreement, all in accordance with this Agreement. Notwithstanding anything herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with: (a) the right of the Developer to encumber or collaterally assign its interest in the Property or any portion thereof or its rights, duties and obligations under this Agreement to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Redevelopment Project Costs, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; and (b) the right of Developer to transfer the Property or to assign the Developer's rights, duties and obligations under this Agreement to any Related Entity; (c) the right of the Developer to sell, lease or transfer a residential unit, commercial unit or parking space in the ordinary course of business; provided that in each such event (i) the Developer named herein shall remain liable hereunder for the substantial completion of the Redevelopment Project, subject, however, to Developer's right of termination pursuant to **Section 7.1** of this Agreement, and shall be released from such liability hereunder only upon substantial completion of the Redevelopment Project and (ii) the Developer provides to the City fifteen (15) days' advance written notice of the proposed assignment or transfer other than of the sale or lease of a residential unit, commercial unit or parking space in the ordinary course of business which shall require no notice except as may be required by **Section 4.3**.

7.3.3 Assignment or Sale to Exempt Organization. Prior to any sale, transfer or other disposition of all or any portion of the Property or any interest therein to an organization exempt from payment of ad valorem property taxes, such organization shall be required to agree not to apply for an exemption from payment of such property taxes for a period ending on the earlier of the date that all TIF Obligations are paid in full or twenty-three (23) years from the effective date of the Approving Ordinance. The Developer shall make this requirement a covenant running with the land, enforceable for such period as if such purchaser or other transferee or possessor thereof were originally a party to and bound by this Agreement.

7.4 Remedies. Except as otherwise provided in this Agreement and subject to the Developer's and the City's respective rights of termination, in the event of any default in or breach of any term or conditions of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of notice, cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional thirty (30) days to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the end of the additional thirty (30) day period, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

7.5 Force Majeure. Neither the City nor the Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by force majeure (except as expressly limited in **Section 3.4**), including without limitation damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Developer to proceed with construction of the Work or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other like causes beyond the parties' reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of the Redevelopment Plan, the Redevelopment Project or the TIF Obligations or this Agreement; provided that (i) such event of force majeure shall not be deemed to exist as to any matter initiated or sustained by the Developer in bad faith, and (ii) the Developer notifies the City in writing within thirty (30) days of the commencement of such claimed event of force majeure.

7.6 Notices. All notices, demands, consents, approvals, certificates and other communications required by this Agreement to be given by either party hereunder shall be in writing and shall be hand delivered or sent by United States first class mail, postage prepaid, addressed to the appropriate party at its address set forth below, or at such other address as such party shall

have last designated by notice to the other. Notices, demands, consents, approvals, certificates and other communications shall be deemed given when delivered or three days after mailing; provided, however, that if any such notice or other communication shall also be sent by telecopy or fax machine, such notice shall be deemed given at the time and on the date of machine transmittal if the sending party receives a written send verification on its machines and forwards a copy thereof with its mailed or courier delivered notice or communication.

- (i) In the case of the Developer, to:

Crossland Capital Partners, Inc.
233 Wilshire Blvd., Suite 850
Santa Monica, CA 90401
Attention: Jeff Crossland
Facsimile: (310) 496-2002

With a copy to:

Husch Blackwell Sanders LLP
190 Carondelet Plaza, Suite 600
St. Louis, Missouri 63105
Attention: David Richardson
Facsimile: (314) 480-1505

- (ii) In the case of the City, to:

City of St. Louis
Office of the Mayor
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103
Attention: Barbara Geisman, Executive Director for Development
Facsimile: 314-622-3440

And

City of St. Louis
Office of the Comptroller
City Hall
1200 Market Street, Room 212
St. Louis, Missouri 63103
Attention: Ivy Neyland-Pinkston, Deputy Comptroller
Facsimile: 314-588-0550

With a copy to:

City of St. Louis
City Counselor
City Hall
1200 Market Street, Room 314
St. Louis, Missouri 63102
Attention: Associate City Counselor
Facsimile: 314-622-4956

And

Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102
Attention: Thomas J. Ray
Facsimile: 314-621-5065

- (iii) In the case of the SLDC, to:

SLDC
1015 Locust Street, Suite 1200
St. Louis, Missouri 63101
Attention: Dale Ruthsatz
Facsimile: 314-231-2341

government who has any power of review or approval of any of the Developer's undertakings, or of the City's contracting for goods or services for the Redevelopment Area, shall participate in any decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the Board of Aldermen the nature of such interest and seek a determination by the Board of Aldermen with respect to such interest and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

7.8 Damage or Destruction of Redevelopment Project. In the event of total destruction or damage to the Redevelopment Project by fire or other casualty, during construction or thereafter during the term of this Agreement so long as any TIF Notes are outstanding and the Developer or a Related Entity owns the Property, the Developer shall determine and advise the City in writing within one year of such destruction or damage whether to restore, reconstruct and repair any such destruction or damage so that the Redevelopment Project will be completed or rebuilt in accordance with the Redevelopment Plan and this Agreement. Should the Developer determine not to restore, reconstruct and repair, all unaccrued liability of the City for any payments of principal or interest on the TIF Notes shall immediately terminate and the Developer shall promptly surrender the TIF Notes to the City for cancellation. In the event of such total destruction or damage during the term of this Agreement and after any TIF Bonds are issued or the issuance of a TIF Note to a purchaser other than the Developer or a Related Entity, the Developer shall, at the City's option after consultation with the Developer, tender to the City that portion of the insurance proceeds, if any, to which Developer is entitled, after satisfaction of any terms or obligations of any deed of trust, promissory note or financing agreement entered into by the Developer for the financing of all or any part of the Redevelopment Project, from any fire or casualty insurance policy in an amount equal to the outstanding principal amount of the TIF Bonds or TIF Notes, plus accrued interest thereon to be deposited into the Special Allocation Fund.

7.9 Inspection. The City may conduct such periodic inspections of the Work as may be generally provided in the building code of the City. In addition, the Developer shall allow other authorized representatives of the City reasonable access to the Work site from time to time upon advance notice prior to the completion of the Work for inspection thereof. The Developer shall not unreasonably deny the City and its officers, employees, agents and independent contractors the right to inspect, upon request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of the Work as the City determines is reasonable and necessary to verify the Developer's compliance with the terms of this Agreement.

7.10 Choice of Law. This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by the laws of State of Missouri for all purposes and intents.

7.11 Entire Agreement; Amendment. The parties agree that this Agreement constitutes the entire agreement between the parties and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the parties.

7.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

7.13 Severability. In the event any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

7.14 Representatives Not Personally Liable. No elected or appointed official, agent, employee or representative of the City shall be personally liable to the Developer in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

7.15 Attorney's Fees. In any dispute arising out of or relating to this Agreement, including any action to enforce this Agreement against a defaulting or breaching party pursuant to **Section 7.4**, the prevailing party shall recover from the non-prevailing party the prevailing party's attorney's fees, in addition to any other damages to which it is entitled.

7.16 Actions Contesting the Validity and Enforceability of the Redevelopment Plan. In the event a third party brings an action against the City or the City's officials, agents, attorneys, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Plan, the TIF Obligations, or the ordinance approving this Agreement, Developer may, at its option, join the City in defense of such claim or action. The parties expressly agree that, so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding. The Developer shall be responsible for all reasonable and necessary costs and expenses incurred by the City and by the Developer in connection with the defense of such claim or action, provided that if the City does not approve a settlement or compromise to which the Developer would agree, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action. All cost of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Redevelopment Project Costs and reimbursable from any amounts in the Special Allocation Fund, subject to Article IV of this Agreement.

7.17 Release and Indemnification. The indemnifications and covenants contained in this Section shall survive termination or expiration of this Agreement.

7.17.1 The City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable to the Developer for damages or otherwise in the event that all or any part of the TIF Act, or any ordinance adopted in connection with either the TIF Act, this Agreement or the Redevelopment Plan, is declared

invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof.

7.17.2 The Developer releases from and covenants and agrees that the City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold harmless the City, its governing body members, officers, agents, attorneys, employees and independent contractors against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed (excluding consequential and punitive damages), to persons or property occurring or allegedly occurring as a result of any negligent or malicious acts or omissions of the Developer, its governing body members, officers, agents, attorneys, employees and independent contractors, in connection with its or their activities conducted pursuant to this Agreement.

7.17.3 The City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, employees, independent contractors or any other persons who may be about the Property or the Work except for matters arising out of the gross negligence or willful misconduct of the City and its governing body members, officers, agents, attorneys, employees and independent contractors.

7.17.4 All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of its governing body members, officers, agents, attorneys, employees or independent contractors in their individual capacities.

7.17.5 No governing body members, officers, agents, attorneys, employees or independent contractors of the City shall be personally liable to the Developer (i) in the event of a default or breach by any party under this Agreement or (ii) for any amount or any TIF Notes which may become due to any party under the terms of this Agreement.

7.17.6 The Developer releases from and covenants and agrees that the City, its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold the City, its governing body members, officers, agents, attorneys, employees and independent contractors, harmless from and against any and all third party suits, interest, claims and cost of reasonable attorneys fees incurred by any of them, resulting from, arising out of, or in any way connected with: (i) the enforcement of this Agreement, the validity of the TIF Obligations or the enforcement or validity of any other agreement or obligation made in connection therewith and their approvals (excluding opinions of counsel and of the City's financial advisors whenever such claim is based on such party's own negligence); (ii) the negligence or willful misconduct of the Developer or its officers, agents, employees or independent contractors in connection with the design, management, development, redevelopment and construction of the Work, or (iii) the compliance by the Developer with all applicable state, federal and local environmental laws, regulations and ordinances as applicable to the Property, to the extent such condition existed prior to the acquisition thereof by the Developer. The foregoing release and indemnification shall not apply in the case of such liability arising directly out of the negligence or malicious acts or omissions of the City or its governing body members, officers, agents, attorneys, employees and independent contractors in connection with its or their activities conducted pursuant to this Agreement or which arises out of matters undertaken by the City following termination of this Agreement as to the Redevelopment Project or any particular portion thereof.

7.18 Survival. Notwithstanding the expiration or termination or breach of this Agreement by either party, the agreements contained in **Section 2.2, clauses (iii)-(v), Article VI, Sections 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17 and Article VIII** of this Agreement shall, except as otherwise expressly set forth herein, survive such early expiration or early termination of this Agreement by either party.

7.19 Maintenance of the Property. The Developer shall remain in compliance with all provisions of the City's ordinances relating to maintenance and appearance of the Property during the construction of the Redevelopment Project or any portion thereof. Upon substantial completion of the Redevelopment Project and so long as any TIF Obligations are outstanding, the Developer or its successor(s) in interest, as owner or owners of the affected portion(s) of the Property, shall, during the remainder of the term of this Agreement (but subject to any delay caused by an event of force majeure as provided in **Section 7.5** of this Agreement), maintain or cause to be maintained the buildings and improvements within the Redevelopment Area which it owns in a good state of repair and attractiveness and in conformity with applicable state and local laws, ordinances and regulations. If there are separately-owned or ground leased parcels of real estate on the Property during the term of this Agreement, each owner or lessee as a successor in interest to the Developer shall maintain or cause to be maintained the buildings and improvements on its parcel in a good state of repair and attractiveness and in conformity with applicable state and local laws, ordinances and regulations.

7.20 Non-Discrimination. The Developer agrees that, during the term of this Agreement and as an independent covenant running with the land, there shall be no discrimination upon the basis of race, creed, color, national origin, sex, age, marital status or physical handicap in the sale, lease, rental, occupancy or use of any of the facilities under its control within the Redevelopment Area or any portion thereof and said covenant may be enforced by the City or the United States of America or any of their respective agencies. The Developer further agrees that a provision containing the covenants of this paragraph shall be included in all agreements pertaining to the lease or conveyance or transfer (by any means) of all or a portion of the Redevelopment Project and any of the facilities under its control in the Redevelopment Area. Except as provided in this Section, the Developer shall have no obligation to enforce the covenants made by any transferee or lessee, tenant, occupant or user of any of the facilities within

the Redevelopment Area.

7.21 Fair Employment. Without limiting any of the foregoing, the Developer voluntarily agrees to observe the Equal Opportunity and Nondiscrimination Guidelines set forth as **Exhibit F**, attached hereto and incorporated herein by reference. By execution of this Agreement, the Developer certifies and agrees that it is under no contractual or other disability that would materially impair its ability to observe the Guidelines set forth as **Exhibit F**, attached hereto and incorporated herein by reference.

7.22 MBE/WBE Compliance

The Developer shall comply with the Mayor’s Executive Order #28, as amended as of the date of this Agreement, during the design and construction of the Redevelopment Project and with respect to ongoing services provided by third parties to the Developer in connection with the Redevelopment Project.

**ARTICLE VIII.
REPRESENTATIONS OF THE PARTIES**

8.1 Representations of the City. The City hereby represents and warrants that it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, including without limitation the right, power and authority to issue and sell the TIF Notes, and all of the foregoing have been or will be, upon adoption of ordinances authorizing the issuance of the TIF Notes, duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

8.2 Representations of the Developer. The Developer hereby represents and warrants it has full power to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing has been duly and validly authorized by all necessary corporate proceedings. This Agreement constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed thereto, and attested as to the date first above written.

“CITY”

CITY OF ST. LOUIS, MISSOURI

By: _____
Francis G. Slay, Mayor

By: _____
Darlene Green, Comptroller

(SEAL)

Attest:

Parrie May, City Register

Approved as to Form:

Patricia Hageman, City Counselor

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed thereto, and attested as to the date first above written.

“DEVELOPER”

Crossland Capital Partners, Inc., a Missouri corporation

By: _____
Name: _____
Title: _____

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this _____ day of _____, 2008, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed

in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this _____ day of _____, 2008, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

STATE OF _____)
) SS.
_____ OF _____)

On this _____ day of _____, 2008, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of Crossland Capital Partners, Inc., a Missouri corporation, and that he is authorized to sign the instrument on behalf of said corporation by authority of its board of directors, and acknowledged to me that he executed the within instrument as said company's free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the _____ and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

EXHIBIT A
Legal Description of the Redevelopment Area

A Lot in block 181 of the City of St. Louis, fronting 114.15 feet on the East line of Eighth Street by a depth Eastwardly of 127.62 feet to an alley; bounded North in part by a private alley and in part by property now or formerly of Security Trust Company and South by the North line of Olive Street.

EXHIBIT B
TIF Reimbursable Redevelopment Project Costs

CATEGORY	
(A)	Acquisition Costs (as defined in Section 1.1 of this Agreement).
(B)	Demolition Costs (includes, but is not limited to, demolition of existing buildings and structures or parts thereof).

(C)	Site Preparation and Public Improvements Costs (includes, but is not limited to, street and sidewalk improvements, parking facilities, utility work and resetting of curbs and landscaping and lighting in the right of way areas).
(D)	Rehabilitation, renovation, or reconstruction of any existing structures or construction of new improvements.
(E)	Financing Costs (includes, but is not limited to, loan fees, disbursing fees, lender’s legal fees, loan appraisals, flood certificates, tax credit investor fees and any and all other costs incurred by the Developer in connection with obtaining financing for and a tax credit investor in the Redevelopment Project).
(F)	Environmental Testing, Remediation and/or Abatement Costs (includes, but is not limited to, the testing for and removal and disposal of toxic or hazardous substances or materials).
(G)	Professional Service Costs (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, sales commissions or special services).
(H)	TIF Costs & Issuance Costs incurred by the Developer pursuant to Section 2.2(i) – 2.2.(v) of this Agreement.

¹ Subject to the limitations set forth in **Section 4.2** of this Agreement, provided that such costs shall not exceed the aggregate amount of \$4,227,000 plus Issuance Costs as provided in the Agreement.

EXHIBIT C

Form of Certificate of Commencement of Construction

To: City of St. Louis
Office of Comptroller
1200 Market St., Room 212
St. Louis, MO 63103
Attention: Ivy Neyland-Pinkston,
Deputy Comptroller

City of St. Louis
St. Louis Development Corp
1015 Locust St., Ste. 1200
St. Louis, MO 63103
Attention: Dale Ruthsatz

DELIVERED BY

CROSSLAND CAPITAL PARTNERS, INC.

The undersigned, Crossland Capital Partners, Inc. (the “Developer”), pursuant to that certain Redevelopment Agreement dated as of _____, 2008, between the City of St. Louis, Missouri (the “City”) and Developer (the “Agreement”) hereby certifies to the City as follows:

1. All property within the Redevelopment Area necessary for the Redevelopment Project (as legally described on Appendix A attached hereto and by this reference incorporated herein and made a part hereof), has been acquired by Developer or a Related Entity in accordance with the Agreement.
2. Developer has entered into an agreement with a contractor or contractors to construct the Redevelopment Project.
3. Developer has submitted to the MBE/WBE Compliance Officer a copy of Developer’s MBE/WBE Subcontractor’s List and MBE/WBE Utilization Statement, which are attached hereto as Appendix B.
4. Developer has obtained all necessary financing to complete the Redevelopment Project.
5. This Certificate of Commencement of Construction is being issued by Developer to the City in accordance with the Agreement to evidence Developer’s satisfaction of all obligations and covenants with respect to commencement of construction of the Redevelopment Project.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this day of _____, 20__.

CROSSLAND CAPITAL PARTNERS, INC., a Missouri corporation

By: _____
Name: _____
Title: _____

EXHIBIT D
Form of Certificate of
Reimbursable Redevelopment Project Costs

TO:
City of St. Louis
Office of Comptroller
1200 Market Street, Room 212
St. Louis, Missouri 63103
Attention: Ivy Neyland-Pinkston, Deputy Comptroller

Re: City of St. Louis, Missouri, Chemical Building Redevelopment Project

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement dated as of _____, 2008 (the "Agreement"), between the City and Crossland Capital Partners, Inc., a Missouri corporation (the "Developer"). In connection with said Agreement, the undersigned hereby states and certifies that:

- 1. Each item listed on Schedule 1 hereto is a Reimbursable Redevelopment Project Cost and was incurred in connection with the construction of the Redevelopment Project.
2. These Reimbursable Redevelopment Project Costs have been have been paid by the Developer and are reimbursable under the Note Ordinance and the Agreement.
3. Each item listed on Schedule 1 has not previously been paid or reimbursed from money derived from the Special Allocation Fund or any money derived from any project fund established pursuant to the Note Ordinance, and no part thereof has been included in any other certificate previously filed with the City.
4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
5. All necessary permits and approvals required for the portion of the Work for which this certificate relates have been issued and are in full force and effect.
6. All Work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Redevelopment Plan and the Agreement.
7. If any cost item to be reimbursed under this Certificate is deemed not to constitute a "redevelopment project cost" within the meaning of the TIF Act and the Agreement, the Developer shall have the right to substitute other eligible Reimbursable Redevelopment Project Costs for payment hereunder.
8. The costs to be reimbursed under this Certificate constitute advances qualified for Tax-Exempt TIF Notes:
Yes: _____ No: _____
9. The Developer is not in default or breach of any material term or condition of the Agreement beyond the applicable cure period, if any.

Dated this ____ day of _____, _____.

Crossland Capital Partners, Inc., a Missouri corporation

By: _____
Name: _____
Title: _____

Approved for payment this ____ day of _____, 20__.

SLDC

By: _____
Name: _____
Title: _____

Schedule 1

The Developer has incurred the following Reimbursable Redevelopment Project Costs:

Payee: Amount: Description of Reimbursable Redevelopment Project Costs:

**EXHIBIT E
Form of Certificate of Substantial Completion
CERTIFICATE OF SUBSTANTIAL COMPLETION**

The undersigned, Crossland Capital Partners, Inc., a Missouri corporation (the "Developer"), pursuant to that certain Redevelopment Agreement dated as of _____, 2008, between the City of St. Louis, Missouri (the "City"), and the Developer (the "Agreement"), hereby certifies to the City as follows:

1. That as of _____, _____, the construction of the Redevelopment Project (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.
2. That the Work has been substantially completed or funded pursuant to Exhibit B to the Agreement.
3. The Work has been performed in a workmanlike manner and substantially in accordance with the Construction Plans (as those terms are defined in the Agreement).
4. This Certificate of Substantial Completion is accompanied by the project architect's or owner representative's certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as **Appendix A** and incorporated herein by reference, certifying that the Redevelopment Project has been substantially completed in accordance with the Agreement.
5. Mechanics lien waivers for applicable portions of the Work in excess of Five Thousand Dollars (\$5,000) have been obtained.
6. This Certificate of Substantial Completion is being issued by the Developer to the SLDC and the City in accordance with the Agreement to evidence the Developer's satisfaction of all material obligations and covenants with respect to the Redevelopment Project.
7. The acceptance (below) or the failure of the SLDC and the Mayor or his designee to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the SLDC and the City (which written objection, if any, must be delivered to the Developer prior to the end of such thirty (30) days) shall evidence the satisfaction of the Developer's agreements and covenants to perform the Work.

Upon such acceptance by the SLDC and the Mayor or his designee, the Developer may record this Certificate in the office of the City's Recorder of Deeds. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this ____ day of _____, 20__.

CROSSLAND CAPITAL PARTNERS, INC.

By: _____
Name: _____
Title: _____

ACCEPTED:

SLDC

By: _____
Name: _____
Title: _____

CITY OF ST. LOUIS, MISSOURI

By: _____
Name: _____
Title: _____

(Insert Notary Form(s) and Legal Description)

**EXHIBIT F
Equal Opportunity and Nondiscrimination Guidelines**

In any contract for Work in connection with the Redevelopment Project related to any of the Property in the Redevelopment Area, the Developer (which term shall include the Developer, any transferees, lessees, designees, successors and assigns thereof, including without limitation any entity related to the Developer by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended), its contractors and subcontractors shall comply with all federal, state and local

laws, ordinances or regulations governing equal opportunity and nondiscrimination (the "Laws"). Moreover, the Developer shall contractually require its contractors and subcontractors to comply with the Laws.

The Developer and its contractors or subcontractors shall not contract with any party known to have been found in violation of the Laws.

The Developer agrees for itself and its contractors and subcontractors that there shall be covenants to ensure that there shall be no discrimination on the part of the Developer or its contractors and subcontractors upon the basis of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap in the sale, lease, rental, use or occupancy of any of the Property or any improvements constructed or to be constructed on the Property or any part thereof. Such covenants shall run with the land and shall be enforceable by the SLDC, the City and the United States of America, as their interest may appear in the Redevelopment Project.

The Developer shall make good faith efforts to observe Executive Order #28 dated July 24, 1997, relating to minority and women-owned business participation in City contracts.

The parties agree that the provisions of City Ordinance #60275, codified at Chapter 3.90 of the Revised Ordinances of the City of St. Louis, Missouri (the "First Source Jobs Policy"), do not specifically apply to the Developer as a potential recipient of TIF Notes, TIF Bonds and/or TIF Revenues. Nonetheless, the Developer voluntarily agrees to make good faith efforts to observe the provisions of the First Source Jobs Policy related to the negotiation of an employment agreement with the St. Louis Agency on Training and Employment.

**EXHIBIT G
MBE/WBE Subcontractors List**

On the spaces provided below please list all subcontractors and suppliers, including M/WBEs, proposed for utilization on this project. Work to be self-performed by the bidder is to be included.

FIRM NAME	MBE or WBE	BID ITEM(S) OF WORK TO BE PERFORMED	SUBCONTRACT OR SUPPLY CONTRACT AMOUNT

**EXHIBIT H
MBE/WBE Utilization Statement**

Policy: It is the policy of the City of St. Louis that minority and women-owned businesses, as defined in the Mayor's Executive Order of July 24, 1997, as amended, shall have an opportunity to participate in the performance of contracts utilizing City funds, in whole or in part. Consequently, the requirements of the aforementioned Executive Order apply to this contract.

Project and Bid Identification:

Contracting Agency: _____
 Project Name: _____
 Letting Number: _____ Date: _____
 Contract MBE/WBE Goal: 25% MBE and 5%WBE Participation
 Total Dollar Amount of Prime Contract: \$ _____
 Total Dollar Amount of Proposed MBE: \$ _____ Percent MBE _____
 Total Dollar Amount of Proposed WBE: \$ _____ Percent WBE _____

Obligation: The undersigned certifies that (s)he has read, understands and agrees to be bound by the bid specifications, including the accompanying exhibits and other items and conditions of the request for proposals regarding minority and women business enterprise utilization. The undersigned further certifies that (s)he is legally authorized by the respondent to make the statements and representations in the M/WBE Forms and Exhibits and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned will enter into formal agreements with the minority/women business enterprises listed in the Subcontractor List, which are deemed by the City to be legitimate and responsible. The undersigned understands that if any of the statements and representations are made by the respondent knowing them to be false, or if there is a failure of the successful

respondent to implement any of the stated agreements, intentions, objectives, goals and commitments set forth herein without prior approval of the City, then in any such events, the contractor's act or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the City to terminate the contract for default. The right to so terminate shall be in addition to, and not in lieu of, any other rights and remedies the City may have for other defaults under the contract. Additionally, the contractor may be subject to the penalties cited in Section Twelve of the Mayor's Executive Order #28, as amended.

Assurance: I, acting as an officer of the undersigned bidder or joint venture bidders, hereby assure the City that on this project my company will (check one):

- Meet or exceed contract award goals and provide participation as shown above.
- Fail to meet contract award goals but will demonstrate that good faith efforts were made to meet the goals and my company will provide participation as shown above.

Name of Prime Contractor(s): _____

Prime Contractor Authorized Signature
Title: _____
Date: _____

Approved: November 24, 2008